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THE WORKS

OF

JOHN C. CALHOUN.

VOL. VI.

NEW YORK:
D. APPLETON AND COMPANY,
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M.DCCC.LV.

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REPORTS

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AND

PUBLIC LETTERS

OF

JOHN C. CALHOUN.

EDITED BY

RICHARD K. CRALLÉ.

NEW YORK:
D. APPLETON AND COMPANY,
346 AND 348 BROADWAY.
M.DCCC.LVI.

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PREFACE.

In the present volume the Editor has endeavored to bring together, without special reference to subject or dates, such Papers as may, in the main, be ranked under the head of Political Essays. Some of these have never before been published; while others appear in a different, if not a more perfect state. They were, for the most part, written at the instance, and for the use of his friends, who, in preparing them for the Press, were allowed and exercised some liberty of private judgment, as well as freedom of criticism. These privileges were, no doubt, cautiously and discreetly used; but in this collection of his Works, the Editor has felt himself constrained to adhere strictly to the original manuscripts of the author, in all cases where they could be procured. He regrets, however, to state that he has not been always successful in his efforts to obtain the originals. Many, it is to be feared, are now irretrievably lost; and amongst them that of the *Address to his political friends and supporters*,—which is the more to be regretted as the Editor has reason to believe it contained some important matter which does not appear in the printed Copy.

"The Exposition," as well as the Report prepared for the Committee on Federal Relations, and the Addresses (the one to the People of South Carolina, and the other to the People of the

United States), are copied from the originals in the handwriting of the author. The first varies somewhat from the printed copy; and the curious student may, if he desire it, compare the two, as well as the Report and Addresses (never before published), with those which were adopted in their stead.

The Editor, in an Appendix to the volume, has deemed it proper to insert so much of the Correspondence between Gen. Jackson and Mr. Calhoun, with the accompanying papers, as the latter thought it expedient to place before the public at the time. These, however, do not embrace all the papers connected with the subject. Others exist which may, and probably will hereafter appear in another form.

MEADOWGROVE, *June 1st*, 1855.

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REPORTS AND PUBLIC LETTERS.

EXPOSITION.

Original Draft of the South Carolina Exposition, prepared for the Special Committee on the Tariff, and, with considerable alterations, adopted by the Legislature of South Carolina, December, 1828.

The Committee of the Whole, to whom were referred the Governor's Message and various memorials on the subject of the Tariff, having reported, and the House having adopted the following resolution, viz. :

"*Resolved*, That it is expedient to protest against the unconstitutionality and oppressive operation of the system of protecting duties, and to have such protest entered on the Journals of the Senate of the United States—Also, to make a public exposition of our wrongs and of the remedies within our power, to be communicated to our sister States, with a request that they will co-operate with this State in procuring a repeal of the Tariff for protection, and an abandonment of the principle; and if the repeal be not procured, that they will co-operate in such measures as may be necessary for arresting the evil.

"*Resolved*, That a committee of seven be raised to carry the foregoing resolution into effect:" which was decided in the affirmative, and the following gentlemen appointed on the committee, viz.: JAMES GREGG, D. L. WARDLAW, HUGH S. LEGARE, ARTHUR P. HAYNE, WM. C. PRESTON, WILLIAM ELLIOTT, and R. BARNWELL SMITH.

The Special Committee to whom the above Resolution was referred, beg leave to Report the following Exposition and Protest—

The committee have bestowed on the subjects referred to them the deliberate attention which their importance demands; and the result, on full investigation, is a unanimous opinion that the act of Congress of the last session, with the whole system of legislation imposing duties on imports,—not for revenue, but the protection of one branch of industry at the expense of others,—is unconstitutional, unequal, and oppressive, and calculated to corrupt the public virtue and destroy the liberty of the country; which propositions they propose to consider in the order stated, and then to conclude their report with the consideration of the important question of the remedy.

The committee do not propose to enter into an elaborate or refined argument on the question of the constitutionality of the Tariff system. The General Government is one of specific powers, and it can rightfully exercise only the powers expressly granted, and those that may be necessary and proper to carry them into effect, all others being reserved expressly to the States or the people. It results, necessarily, that those who claim to exercise power under the Constitution, are bound to show that it is expressly granted, or that it is necessary and proper as a means to some of the granted powers. The advocates of the Tariff have offered no such proof. It is true that the third section of the first article of the Constitution authorizes Congress to lay and collect an impost duty, but it is granted as a tax power for the sole purpose of revenue,—a power in its nature essentially different from that of imposing protective or prohibitory duties. Their objects are incompatible. The prohibitory system must end in destroying the revenue from imports. It has been said that the system is a violation of the spirit, and not the

letter of the Constitution. The distinction is not material. The Constitution may be as grossly violated by acting against its meaning as against its letter; but it may be proper to dwell a moment on the point in order to understand more fully the real character of the acts under which the interest of this, and other States similarly situated, has been sacrificed. The facts are few and simple. The Constitution grants to Congress the power of imposing a duty on imports for revenue, which power is abused by being converted into an instrument of rearing up the industry of one section of the country on the ruins of another. The violation, then, consists in using a power granted for one object to advance another, and that by the sacrifice of the original object. It is, in a word, a violation by perversion,—the most dangerous of all because the most insidious and difficult to resist. Others cannot be perpetrated without the aid of the judiciary;—this may be by the Executive and Legislative departments alone. The courts cannot look into the motives of legislators. They are obliged to take acts by their titles and professed objects, and if these be constitutional, they cannot interpose their power, however grossly the acts may, in reality, violate the Constitution. The proceedings of the last session sufficiently prove that the House of Representatives are aware of the distinction, and determined to avail themselves of its advantage.

In the absence of arguments, drawn from the Constitution itself, the advocates of the power have attempted to call in the aid of precedent. The committee will not waste their time in examining the instances quoted. If they were strictly in point, they would be entitled to little weight. Ours is not a Government of precedents, nor can they be admitted, except to a very limited extent, and with great caution, in the interpretation of the Constitution, without changing, in time, the entire character of the instrument. The only safe rule is the Constitution itself,—or, if that be

doubtful, the history of the times. In this case, if doubts existed, the journals of the Convention itself would remove them. It was moved in that body to confer on Congress the very power in question to encourage manufactures, but it was deliberately withheld, except to the extent of granting patent rights for new and useful inventions. Instead of granting the power, permission was given to the States to impose duties, with the consent of Congress, to encourage their own manufactures; and thus, in the true spirit of justice, imposing the burden on those who were to be benefited. But, giving the precedents every weight that may be claimed for them, the committee feel confident that, in this case, there are none in point previous to the adoption of the present Tariff system. Every instance which has been quoted, may fairly be referred to the legitimate power of Congress, to impose duties on imports for revenue. It is a necessary incident of such duties to act as an encouragement to manufactures, whenever imposed on articles which may be manufactured in our country. In this incidental manner, Congress has the power of encouraging manufactures; and the committee readily concede that, in the passage of an impost bill, that body may, in modifying the details, so arrange the provisions of the bill, as far as it may be done consistently with its proper object, as to aid manufactures. To this extent Congress may constitutionally go, and has gone from the commencement of the Government, which will fully explain the precedents cited from the early stages of its operation. Beyond this they never proceeded till the commencement of the present system, the inequality and oppression of which they will next proceed to consider.

On entering on this branch of the subject, the committee feel the painful character of the duty which they must perform. They would desire never to speak of our country, as far as the action of the General Government is concerned, but as one great whole, having a common interest, which all

the parts ought zealously to promote. Previously to the adoption of the Tariff system, such was the unanimous feeling of this State; but in speaking of its operation, it will be impossible to avoid the discussion of sectional interest, and the use of sectional language. On its authors, and not on us, who are compelled to adopt this course in self-defence, by injustice and oppression, be the censure.

So partial are the effects of the system, that its burdens are exclusively on one side and its benefits on the other. It imposes on the agricultural interest of the South, including the South-west, and that portion of the country particularly engaged in commerce and navigation, the burden not only of sustaining the system itself, but that also of the Government. In stating the case thus strongly, it is not the intention of the committee to exaggerate. If exaggeration were not unworthy of the gravity of the subject, the reality is such as to make it unnecessary.

That the manufacturing States, even in their own opinion, bear no share of the burden of the Tariff in reality, we may infer with the greatest certainty from their conduct. The fact that they urgently demand an increase, and consider every addition as a blessing, and a failure to obtain one as a curse, is the strongest confession that, whatever burden it imposes, in reality falls, not on them, but on others. Men ask not for burdens, but benefits. The tax paid by the duties on imports, by which, with the exception of the receipts from the sale of the public lands, and a few incidental items, the Government is wholly supported, and which, in its gross amount, annually equals about $23,000,000, is then, in truth, no tax on them. Whatever portion of it they advance as consumers of the articles on which it is imposed, returns to them with usurious interest through an artfully contrived system. That such are the facts, the committee will proceed to demonstrate by other arguments besides the confession of the parties interested in these acts, as conclu-

sive as that ought to be considered. If the duties were imposed on the exports instead of the imports, no one would doubt their partial operation, or that the duties, in that form, would fall on those engaged in producing articles for the foreign market; and as rice, tobacco, and cotton, constitute the great mass of our exports, such duties would, of necessity, mainly fall on the Southern States, where they are exclusively cultivated. To prove, then, that the burden of the Tariff falls also on them almost exclusively, it is only necessary to show that, as far as their interest is concerned, there is little or no difference between an export and an import duty. We export to import. The object is an exchange of the fruits of our labor for those of other countries. We have, from soil and climate, a facility in rearing certain great agricultural staples, while other and older countries, with dense population and capital greatly accumulated, have equal facility in manufacturing various articles suited to our use; and thus a foundation is laid for an exchange of the products of labor mutually advantageous. A duty, whether it be on the imports or exports, must fall on this exchange; and, however laid, must, in reality, be paid by the producer of the articles exchanged. Such must be the operation of all taxes on sales or exchanges. The producer, in reality, pays it, whether laid on the vendor or purchaser. It matters not in the sale of a tract of land, or any other article, if a tax be imposed, whether it be paid by him who sells or him who buys. The amount must, in both cases, be deducted from the price. Nor can it alter, in this particular, the operation of such a tax, by being imposed on the exchanges of different countries. Such exchanges are but the aggregate of sales of the individuals of the respective countries; and must, if taxed, be governed by the same rules. Nor is it material whether the exchange be barter or sale, direct or circuitous. In any case it must fall on the producer. To the growers of cotton, rice, and tobacco, it is the same, whether the Government

takes one third of what they raise, for the liberty of sending the other two thirds abroad, or one third of the iron, salt, sugar, coffee, cloth, and other articles they may need in exchange, for the liberty of bringing them home. In both cases he gets a third less than he ought. A third of his labor is taken; yet the one is an import duty, and the other an export. It is true that a tax on the imports, by raising the price of the articles imported, may in time produce the supply at home, and thus give a new direction to the exchanges of the country; but it is also true that a tax on the exports, by diminishing at home the price of the same material, may have the same effect, and with no greater burden to the grower. Whether the situation of the South will be materially benefited by this new direction given to its exchanges, will be considered hereafter; but whatever portion of her foreign exchanges may, in fact, remain, in any stage of this process of changing her market, must be governed by the rule laid down. Whatever duty may be imposed to bring it about, must fall on the foreign trade which remains, and be paid by the South almost exclusively,—as much so, as an equal amount of duty on their exports. Let us now trace the operation of the system in some of its prominent details, in order to understand, with greater precision, the extent of the burden it imposes on us, and the benefits which it confers, at our expense, on the manufacturing States. The committee, in the discussion of this point, will not aim at minute accuracy. They have neither the means nor the time requisite for that purpose, nor do they deem it necessary, if they had, to estimate the fractions of loss or gain on either side on subjects of such great magnitude. The exports of domestic produce, in round numbers, may be estimated as averaging $53,000,000 annually; of which the States growing cotton, rice, and tobacco, produce about $37,000,000. In the last four years the average amount of the export of cotton, rice, and tobacco, exceeded $35,500,000;

to which, if we add flour, corn, lumber, and other articles exported from the States producing the former, their exports cannot be estimated at a less sum than that stated. Taking it at that sum, the exports of the Southern or staple States, and other States, will stand as $37,000,000 to $16,000,000,—or considerably more than the proportion of two to one; while their population, estimated in federal numbers, is the reverse; the former sending to the House of Representatives but 76 members, and the latter 137. It follows that about one third of the Union exports more than two thirds of the domestic products. Such, then, is the amount of labor which our country annually exchanges with the rest of the world,—and such our proportion. The Government is supported almost exclusively by a tax on this exchange, in the shape of an impost duty, and which amounts annually to about $23,000,000, as has already been stated. Previous to the passage of the act of the last session, this tax averaged about 37½ per cent. on the value of imports. What addition that has made, it is difficult, with the present data, to estimate with precision; but it may be assumed, on a very moderate calculation, to be 7½ per cent.,—thus making the present duty to average at least 45 per cent., which, on $37,000,000, the amount of our share of the exports, will give the sum of $16,650,000, as our share of the contribution to the general Treasury.

Let us take another, and perhaps more simple and striking view of this important point. Exports and imports, allowing for the profit and loss of trade, must be equal in a series of years. This is a principle universally conceded. Let it then be supposed, for the purpose of illustration, that the United States were organized into two separate and distinct custom-house establishments,—one for the staple States, and the other for the rest of the Union; and that all commercial intercourse between the two sections were taxed in the same manner and to the same extent with the commerce

of the rest of the world. The foreign commerce, under such circumstances, would be carried on from each section, direct with the rest of the world; and the imports of the Southern Custom-House, on the principle that exports and imports must be equal, would amount annually to $37,000,000; on which 45 per cent., the average amount of the impost duty, would give an annual revenue of $16,650,000, without increasing the burden already imposed on the people of those States one cent. This would be the amount of revenue on the exchanges of that portion of their products which go abroad; but if we take into the estimate the duty which would accrue on the exchange of their products with the manufacturing States,—which now, in reality, is paid by the Southern States in the shape of increased prices, as a bounty to manufactures, but which, on the supposition, would constitute a part of their revenue, many millions more would have to be added.

But, it is contended, that the consumers really pay the impost,—and that, as the manufacturing States consume a full share, in proportion to their population, of the articles imported, they must also contribute their full share to the Treasury of the Union. The committee will not deny the position that their consumption is in proportion to their population,—nor that the consumers pay, provided they be mere consumers, without the means, through the Tariff, of indemnifying themselves in some other character. Without the qualification, no proposition can be more fallacious than that the consumers pay. That the manufacturing States do, in fact, indemnify themselves, and more than indemnify themselves for the increased price they pay on the articles they consume, we have, as has already been stated, their confession in a form which cannot deceive,—we mean their own acts. Nor is it difficult to trace the operation by which this is effected. The very acts of Congress, imposing the burdens on them, as consumers, give them the means, through

the monopoly which it affords their manufactures in the home market, not only of indemnifying themselves for the increased price on the imported articles which they may consume, but, in a great measure, to command the industry of the rest of the Union. The argument urged by them for the adoption of the system (and with so much success), that the price of property and products in those States must be thereby increased,—clearly proves that the facts are as stated by your committee. It is by this very increased price, which must be paid by their fellow-citizens of the South, that their industry is affected, and the fruits of our toil and labor, which, on any principle of justice, ought to belong to ourselves, are transferred from us to them. The maxim, that the consumers pay, strictly applies to us. We are mere consumers, and destitute of all means of transferring the burden from ours to the shoulders of others. We may be assured that the large amount paid into the Treasury under the duties on imports, is really derived from the labor of some portion of our citizens. The Government has no mines. Some one must bear the burden of its support. This unequal lot is ours. We are the serfs of the system,—out of whose labor is raised, not only the money paid into the Treasury, but the funds out of which are drawn the rich rewards of the manufacturer and his associates in interest. Their encouragement is our discouragement. The duty on imports, which is mainly paid out of our labor, gives them the means of selling to us at a higher price; while we cannot, to compensate the loss, dispose of our products at the least advance. It is then, indeed, not a subject of wonder, when understood, that our section of the country, though helped by a kind Providence with a genial sun and prolific soil, from which spring the richest products, should languish in poverty and sink into decay, while the rest of the Union, though less fortunate in natural advantages, are flourishing in unexampled prosperity. The assertion, that the encouragement of the industry of the

manufacturing States is, in fact, discouragement to ours, was not made without due deliberation. It is susceptible of the clearest proof. We cultivate certain great staples for the supply of the general market of the world :—They manufacture almost exclusively for the home market. Their object in the Tariff is to keep down foreign competition, in order to obtain a monopoly of the domestic market. The effect on us is, to compel us to purchase at a higher price, both what we obtain from them and from others, without receiving a correspondent increase in the price of what we sell. The price at which we can afford to cultivate must depend on the price at which we receive our supplies. The lower the latter, the lower we may dispose of our products with profit,—and in the same degree our capacity of meeting competition is increased ; and, on the contrary, the higher the price of our supplies, the less the profit, and the less, consequently, the capacity for meeting competition. If, for instance, cotton can be cultivated at 10 cents the pound, under an increase price of forty-five per cent. on what we purchase, in return, it is clear, if the prices of what we consume were reduced forty-five per cent. (the amount of the duty), we could, under such reduced prices, afford to raise the article at 5½ cents per pound, with a profit, as great as what we now obtain at 10 cents ; and that our capacity of meeting the competition of foreigners in the general market of the world, would be increased in the same proportion. If we can now, with the increased price from the Tariff, contend with success, under a reduction of 45 per cent. in the prices of our products, we could drive out all competition ; and thus add annually to the consumption of our cotton, three or four hundred thousand bales, with a corresponding increase of profit. The case, then, fairly stated between us and the manufacturing States is, that the Tariff gives them a protection against foreign competition in our own market, by diminishing, in the same proportion, our capacity to compete

with our rivals, in the general market of the world. They who say that they cannot compete with foreigners at their own doors, without an advantage of 45 per cent., expect us to meet them abroad under disadvantage equal to their encouragement. But this oppression, as great as it is, will not stop at this point. The trade between us and Europe has, heretofore, been a mutual exchange of products. Under the existing duties, the consumption of European fabrics must, in a great measure, cease in our country; and the trade must become, on their part, a cash transaction. He must be ignorant of the principles of commerce, and the policy of Europe, particularly England, who does not see that it is impossible to carry on a trade of such vast extent on any other basis than barter; and that, if it were not so carried on, it would not long be tolerated. We already see indications of the commencement of a commercial warfare, the termination of which no one can conjecture,—though our fate may easily be. The last remains of our great and once flourishing agriculture must be annihilated in the conflict. In the first instance, we will be thrown on the home market, which cannot consume a fourth of our products; and instead of supplying the world, as we would with a free trade, we would be compelled to abandon the cultivation of three fourths of what we now raise, and receive for the residue, whatever the manufacturers, who would then have their policy consummated by the entire possession of our market, might choose to give. Forced to abandon our ancient and favorite pursuit, to which our soil, climate, habits, and peculiar labor are adapted, at an immense sacrifice of property, we would be compelled, without capital, experience, or skill, and with a population untried in such pursuits, to attempt to become the rivals instead of the customers of the manufacturing States. The result is not doubtful. If they, by superior capital and skill, should keep down successful competition on our part, we would be doomed to toil at our unprofitable agriculture,—

selling at the prices which a single and very limited market might give. But, on the contrary, if our necessity should triumph over their capital and skill,—if, instead of raw cotton, we should ship to the manufacturing States cotton yarn and cotton goods, the thoughtful must see that it would inevitably bring about a state of things which could not long continue. Those who now make war on our gains, would then make it on our labor. They would not tolerate, that those, who now cultivate our plantations, and furnish them with the material, and the market for the products of their arts, should, by becoming their rivals, take bread out of the mouths of their wives and children. The committee will not pursue this painful subject; but, as they clearly see that the system, if not arrested, must bring the country to this hazardous extremity, neither prudence nor patriotism would permit them to pass it by without raising a warning voice against a danger of such menacing character.

It was conceded, in the course of the discussion, that the consumption of the manufacturing States, in proportion to population, was as great as ours. How they, with their limited means of payment, if estimated by the exports of their own products, could consume as much as we do with our ample exports, has been partially explained; but it demands a fuller consideration. Their population, in round numbers, may be estimated at about eight, and ours at four millions; while the value of their products exported, compared with ours, is as sixteen to thirty-seven millions of dollars. If to the aggregate of these sums be added the profits of our foreign trade and navigation, it will give the amount of the fund out of which is annually paid the price of foreign articles consumed in our country. This profit, at least so far as it constitutes a portion of the fund out of which the price of the foreign articles is paid, is represented by the difference between the value of the exports and imports,—that of both being estimated at our own ports,—and which, taking the

average of the last five years, amount to about $4,000,000,—and which, as the foreign trade of the country is principally in the hands of the manufacturing States, we will add to their means of consumption; which will raise theirs to $20,000,000, and will place the relative means of the consumption of the two sections, as twenty to thirty-seven millions of dollars; while, on the supposition of equal consumption in proportion to population, their consumption would amount to thirty-eight millions of dollars, and ours to nineteen millions. Their consumption would thus exceed their capacity to consume, if judged by the value of their exports, and the profits of their foreign commerce, by eighteen millions; while ours, judged the same way, would fall short by the same sum. The inquiry which naturally presents itself is, how is this great change in the relative condition of the parties, to our disadvantage, affected?—which the committee will now proceed to explain.

It obviously grows out of our connections. If we were entirely separated, without political or commercial connection, it is manifest that the consumption of the manufacturing States, of foreign articles, could not exceed twenty-two millions,—the sum at which the value of their exports and profit of their foreign trade is estimated. It would, in fact, be much less; as the profits of foreign navigation and trade, which have been added to their means, depend almost exclusively on the great staples of the South, and would have to be deducted, if no connection existed, as supposed. On the contrary, it is equally manifest, that the means of the South to consume the products of other countries, would not be so materially affected in the state supposed. Let us, then, examine what are the causes growing out of this connection, by which so great a change is effected. They may be comprehended under three heads;—the Custom-House,—the appropriations,—and the monopoly of the manufacturers; all of which are so intimately blended as to constitute one

system, which its advocates, by a perversion of all that is associated with the name, call the "AMERICAN SYSTEM." The Tariff is the soul of this system.

It has already been proved that our contribution, through the Custom-House, to the Treasury of the Union, amounts annually to $16,650,000, which leads to the inquiry,—What becomes of so large an amount of the products of our labor, placed, by the operation of the system, at the disposal of Congress? One point is certain,—a very small share returns to us, out of whose labor it is extracted. It would require much investigation to state, with precision, the proportion of the public revenue disbursed annually in the Southern, and other States respectively; but the committee feel a thorough conviction, on examination of the annual appropriation acts, that a sum much less than two millions of dollars falls to our share of the disbursements; and that it would be a moderate estimate to place our contribution, above what we receive back, through all of the appropriations, at $15,000,000; constituting, to that great amount, an annual, continued, and uncompensated draft on the industry of the Southern States, through the Custom-House alone. This sum, deducted from the $37,000,000,—the amount of our products annually exported, and added to the $20,000,000, the amount of the exports of the other States, with the profits of foreign trade and navigation, would reduce our means of consumption to $22,000,000, and raise theirs to $35,000,000;—still leaving $3,000,000 to be accounted for; and which may be readily explained, through the operation of the remaining branch of the system,—the monopoly which it affords the manufacturers in our market; and which empowers them to force their goods on us at a price equal to the foreign article of the same description, with the addition of the duty;—thus receiving, in exchange, our products, to be shipped, on their account,—and thereby increasing their means, and diminishing ours in the same proportion. But this constitutes a part only of our loss un-

der this branch. In addition to the thirty-five millions of our products which are shipped to foreign countries, a very large amount is annually sent to the other States, for their own use and consumption. The article of cotton alone, is estimated at 150,000 bales,—which, valued at thirty dollars the bale, would amount to $4,500,000, and constitutes a part of this forced exchange.

Such is the process, and the amount, in part, of the transfer of our property annually to other sections of the country, estimated on the supposition that each section consumes of imported articles, an amount equal in proportion to its population. But the committee are aware that they have rated our share of the consumption far higher than the advocates of the system place it. Some of them rate it as low as five millions of dollars annually; not perceiving that, by thus reducing ours, and raising that of the manufacturing States, in the same proportion, they demonstratively prove how oppressive the system is to us, and how gainful to them; instead of showing, as they suppose, how little we are affected by its operation. Our complaint is, that we are not permitted to consume the fruits of our labor; but that, through an artful and complex system, in violation of every principle of justice, they are transferred from us to others. It is, indeed, wonderful that those who profit by our loss, blinded as they are by self-interest, when reducing our consumption as low as they have, never thought to inquire what became of the immense amount of the products of our industry, which are annually sent out in exchange with the rest of the world; and if we did not consume its proceeds, who did,—and by what means. If, in the ardent pursuit of gain, such a thought had occurred, it would seem impossible, that all the sophistry of self-interest, deceiving as it is, could have disguised from their view our deep oppression, under the operation of the system. Your committee do not intend to represent, that the commercial connection between us and

the manufacturing States is wholly sustained by the Tariff system. A great, natural, and profitable commercial communication would exist between us, without the aid of monopoly on their part; which, with mutual advantage, would transfer a large amount of their products to us, and an equal amount of ours to them, as the means of carrying on their commercial operations with other countries. But even this legitimate commerce is greatly affected, to our disadvantage, through the Tariff system; the very object of which is, to raise the price of labor, and the profits of capital, in the manufacturing States,—which, from the nature of things, cannot be done, without raising, correspondingly, the price of all products, in the same quarter, as well those protected, as those not protected. That such would be the effect, we know has been urged in argument mainly to reconcile all classes in those States to the system; and with such success, as to leave us no room to doubt its correctness; and yet, such are the strange contradictions, in which the advocates of an unjust cause must ever involve themselves, when they attempt to sustain it, that the very persons, who urge the adoption of the system in one quarter, by holding out the temptation of high prices for all they make, turn round and gravely inform us, that its tendency is to depress, and not to advance prices. The capitalist, the farmer, the wool-grower, the merchant and laborer, in the manufacturing States, are all to receive higher rates of wages and profits,—while we, who consume, are to pay less for the products of their labor and capital. As contradictory and absurd as are their arguments, they, at least, conclusively establish the important fact, that those who advance them are conscious that the proof of the partial and oppressive operation of the system, is unanswerable if it be conceded that we, in consequence, pay higher prices for what we consume. Were it possible to meet this conclusion on other grounds, it could not be, that men of sense would venture to encounter such palpable con-

tradictions. So long as the wages of labor, and the profits of capital, constitute the principal elements of price, as they ever must, the one or the other argument—that addressed to us, or that to the manufacturing States—must be false. But, in order to have a clear conception of this important point, the committee propose to consider more fully the assertion, that it is the tendency of high duties, by affording protection, to reduce, instead of to increase prices; and if they are not greatly mistaken, it will prove, on examination, to be utterly erroneous.

Before entering on the discussion, and in order to avoid misapprehension, the committee will admit, that there is a single exception. When a country is fully prepared to manufacture, that is, when wages and interest are as low, and natural advantages as great, as in the countries from which it draws its supplies, it may happen, that high duties, by starting manufactories, under such circumstances, may be followed by a permanent reduction in prices; and which, if the Government had the power, and the people possessed sufficient guarantees against abuse, might render it wise and just, in reference to the general interest, in many instances to afford protection to infant manufacturing establishments. But, where permanent support is required,—which must ever be the case when a country is not ripe,—such duties must ever be followed by increased prices. The temporary effect may be different, from various causes. Against this position, it is urged, that the price depends on the proportion between the supply and demand,—that protection, by converting mere consumers into rival manufacturers, must increase the supply without raising the demand,—and, consequently, must tend to reduce prices. If it were necessary, it might be conclusively shown, that this tendency must be more than countervailed, by subtracting, as must ever be the case when the system is forced, capital and labor from more profitable, and turning them to less profitable pursuit, by an expensive

bounty, paid out of the labor of the country. But, admitting the argument to be true, the reduction of price must be in proportion to the addition made to the general supply of the commercial world, which is so great that, if we were to suppose our share of the demand to be wholly withdrawn, its tendency to reduce the general price would be small compared to the tendency to high prices, in consequence of the high duties. But the argument rests on an assumption wholly false. It proceeds on the supposition that, without the Tariff, the manufacturing States would not have become such,—than which nothing can be more erroneous. They had no alternative, but to emigrate, or to manufacture. How could they otherwise obtain clothing or other articles necessary for their supply? How could they pay for them? To Europe they could ship almost nothing. Their agricultural products are nearly the same with those of that portion of the globe; and the only two articles, grain and lumber, in the production of which they have advantages, are, in that quarter, either prohibited, or subject to high duties. From us, who are purely an agricultural people, they could draw nothing but the products of the soil. The question, then, is not, whether those States should or should not manufacture,—for necessity, and the policy of other nations had decided that question,—but whether they should, with or without a bounty. It was our interest that they should without. It would compel them to contend with the rest of the world in our market, in free and open competition; the effects of which would have been, a reduction of prices to the lowest point; thereby enabling us to exchange the products of our labor most advantageously,—giving little, and receiving much; while, on the other hand, in order to meet European competition, they would have been compelled to work at the lowest wages and profits. To avoid this, it was their interest to manufacture with a bounty; by which our situation was completely reversed. They were relieved

by our depression. Thus, through our political connection, by a perversion of the powers of the Constitution, which was intended to protect the States of the Union in the enjoyment of their natural advantages, they have stripped us of the blessings bestowed by nature, and converted them to their own advantage. Restore our advantages, by giving us free trade with the world, and we would become, what they now are by our means, the most flourishing people on the globe. But these are withheld from us under the fear that, with their restoration, they would become, what we are by their loss, among the most depressed.

Having answered the argument in the abstract, the committee will not swell their report by considering the various instances which have been quoted, to show that prices have not advanced since the commencement of the system. We know that they would instantly fall nearly fifty per cent., if its burdens were removed; and that is sufficient for us to know. Many and conclusive reasons might be urged, to show why, from other causes, prices have declined since that period. The fall in the price of raw materials,—the effects of the return of peace,—the immense reduction in the amount of the circulating medium of the world, by the withdrawal from circulation of a vast amount of paper, both in this country and in Europe,—the important improvements in the mechanical and chemical arts,—and, finally, the still progressive depression arising from the great improvements which preceded that period a short time, particularly in the use of steam and the art of spinning and weaving,—have all contributed to this result. The final reduction of prices, which must take place in the articles whose production is affected by such improvements, cannot be suddenly realized. Another generation will probably pass away, before they will reach that point of depression which must follow their universal introduction.

We are told, by those who pretend to understand our in-

terest better than we do, that the excess of production, and not the Tariff, is the evil which afflicts us; and that our true remedy is, a reduction of the quantity of cotton, rice, and tobacco, which we raise, and not a repeal of the Tariff. They assert, that low prices are the necessary consequence of excess of supply, and that the only proper correction is in diminishing the quantity. We would feel more disposed to respect the spirit in which the advice is offered, if those from whom it comes accompanied it with the weight of their example. *They* also, occasionally, complain of low prices; but instead of diminishing the supply, as a remedy for the evil, demand an enlargement of the market, by the exclusion of all competition. *Our market is the world;* and as we cannot imitate their example by enlarging it for our products, through the exclusion of others, we must decline their advice,—which, instead of alleviating, would increase our embarrassments. We have no monopoly in the supply of our products; one half of the globe may produce them. Should we reduce our production, others stand ready, by increasing theirs, to take our place; and, instead of raising prices, we would only diminish our share of the supply. We are thus compelled to produce, on the penalty of losing our hold on the general market. Once lost, it may be lost for ever;—and lose it we must, if we continue to be constrained, as we now are, on the one hand, by the general competition of the world, to sell *low;* and, on the other, by the Tariff to buy *high.* We cannot withstand this double action. Our ruin must follow. In fact, our only permanent and safe remedy is, not from the rise in the price of what we *sell,* in which we can receive but little aid from our Government, but a reduction in the price of what we *buy;* which is prevented by the interference of the Government. Give us a free and open competition in our own market, and we fear not to encounter like competition in the general market of the world. If, under all our discouragement by the acts of our Govern-

ment, we are still able to contend there against the world, can it be doubted, if this impediment were removed, we would force out all competition; and thus, also enlarge our market,—not by the oppression of our fellow-citizens of other States, but by our industry, enterprise, and natural advantages. But while the system prevents this great enlargement of our foreign market, and endangers what remains to us, its advocates attempt to console us by the growth of the home market for our products, which, according to their calculation, is to compensate us amply for all our losses; though, in the leading article of our products, cotton, the home market now consumes but a sixth; and if the prohibitory system as to cotton goods were perfected by the exclusion of all importations, the entire consumption of cotton goods would not raise the home consumption of cotton above a fifth of what we raise.

In the other articles, rice and tobacco, it is much less. But brilliant prospects are held out, of our immense export trade in cotton goods, which is to consume an immense amount of the raw material,—without reflecting to what countries they are to be shipped. Not to Europe, for there we will meet prohibition for prohibition;—not to the Southern portions of this continent, for already they have been taught to imitate our prohibitory policy. The most sanguine will not expect extensive or profitable markets in the other portions of the globe. But, admitting that no other impediment existed, the system itself is an effectual barrier against extensive exports. The very means which secures the domestic market must lose the foreign. High wages and profits are an effectual stimulus when enforced by monopoly, as in our market, but they must be fatal to competition in the open and free market of the world. Besides, when manufactured articles are exported, they must follow the same law to which the products of the soil are subject when exported. They will be sent out in order to be exchanged for the pro-

ducts of other countries; and if these products be taxed, on their introduction as a back return, it has been demonstrated that, like all other taxes on exchange, it must be paid by the producer of the articles. The nature of the operation will be seen, if it be supposed, in their exchange with us, instead of receiving our products free of duty, the manufacturer had to pay forty-five per cent. in the back return, on the cotton and other products which they may receive from us in exchange. If to these insuperable impediments to a large export trade it be added, that our country rears the products of almost every soil and climate, and that scarcely an article can be imported, but what may come in competition with some of the products of our arts or our soil, and consequently ought to be excluded on the principles of the system, it must be apparent, when perfected, the system itself must essentially exclude exports; unless we should charitably export for the supply of the wants of others, without expecting a return trade. The loss of the exports, and with it the imports also, must, in truth, be the end of the system. If we export, we must import; and if we exclude all imported products which come in competition with ours, unless we can invent new articles of exchange, or enlarge, tenfold, the consumption of the few which we cannot produce, with the ceasing of importation, exportation must also cease. If it did not, then neither would importation cease; and the continuance of imports must be followed, as stated, by that of exports;—and this again would require—in order to complete the system by excluding competition in our own markets—new duties; and thus, an incessant and unlimited increase of duties would be the result of the competition, of which the manufacturing States complain. The evil is in the exports,—and the most simple and efficient system to secure the home market, would, in fact, be, to prohibit exports; and as the Constitution only prohibits duties on exports, and as duties are not *prohibition*, we may yet wit-

ness this addition to the system ;—the same construction of the instrument which justifies the system itself, would equally justify this, as a necessary means to perfect it.

The committee deemed it more satisfactory to present the operation of the system on the staple States generally, than its peculiar operation on this. In fact, they had not the data, had they felt the inclination, to distinguish the oppression under which this State labors, from that of the other staple States. The fate of the one must be that of the others. It may, however, be truly said, that we are among the greatest sufferers. No portion of the world, in proportion to population and wealth, ever exchanged with other countries a greater amount of its products. With the proceeds of the sales of a few great staples we purchase almost all our supplies ; and that system must, indeed, act with the desolation of a famine on such a people, where the Government exacts a tax of nearly fifty per cent. on so large a proportion of their exchanges, in order that a portion of their fellow-citizens might, in effect, lay one as high on the residue.

The committee have, thus far, considered the question in its relative effects on the staple and manufacturing States,—comprehending, under the latter, all those that support the Tariff system. It is not for them to determine whether all those States have an equal interest in its continuance. It is manifest that their situation, in respect to its operation, is very different. While, in some, the manufacturing interest wholly prevails,—in others, the commercial and navigating interests,—and in a third, the agricultural interest greatly predominates,—as is the case in all the Western States. It is difficult to conceive what real interest the last can have in the system. They manufacture but little, and must consequently draw their supplies, principally, either from abroad, or from the real manufacturing States ; and, in either case, must pay the increased price in consequence of the high duties, which, at the same time, must diminish their means

with ours, from whom they are principally derived, through an extensive interior commercial intercourse. From the nature of our commercial connections, our loss must precede theirs; but theirs will with certainty follow, unless compensation for the loss of our trade can be found somewhere in the system. Its authors have informed us that it consists of two parts,—of which *protection* is the essence of one, and *appropriation* of the other. In both capacities it impoverishes us,—and in both it enriches the real manufacturing States. The agricultural States of the West are differently affected. As a *protective* system, they lose in common with us,—and it will remain with them to determine, whether an adequate compensation can be found, in appropriations for internal improvements, or any other purpose, for the steady and rich returns which a free exchange of the produce of their fertile soil with the staple States must give, provided the latter be left in full possession of their natural advantages.

The question, in what manner the loss and gain of the system distribute themselves among the several classes of society, is intimately connected with that of their distribution among the several sections. Few subjects present more important points for consideration; but as it is not possible for the committee to enter fully into the discussion of them, without swelling their report beyond all reasonable bounds, they will pass them over with a few brief and general remarks.

The system has not been sufficiently long in operation with us, to display its real character in reference to the point now under discussion. To understand its ultimate tendency, in distributing the wealth of society among the several classes, we must turn our eyes to Europe, where it has been in action for centuries,—and operated as one among the efficient causes of that great inequality of property which prevails in most European countries. No system can be more efficient to rear up a moneyed aristocracy. Its tendency is, to make the poor

poorer, and the rich richer. Heretofore, in our country, this tendency has displayed itself principally in its effects, as regards the different sections,—but the time will come when it will produce the same results between the several classes in the manufacturing States. After we are exhausted, the contest will be between the capitalists and operatives; for into these two classes it must, ultimately, divide society. The issue of the struggle here must be the same as it has been in Europe. Under the operation of the system, wages must sink more rapidly than the prices of the necessaries of life, till the operatives will be reduced to the lowest point,—when the portion of the products of their labor left to them, will be barely sufficient to preserve existence. For the present, the pressure of the system is on our section. Its effects on the staple States produce almost universal suffering. In the mean time, an opposite state of things exists in the manufacturing States. For the present, every interest among them,—except that of foreign trade and navigation, flourishes. Such must be the effect of a monopoly of so rich and extensive a market as that of the Southern States, till it is impoverished,—as ours rapidly must be, by the operation of the system, when its natural tendencies, and effects on the several classes of the community, will unfold themselves, as has been described by the committee.

It remains to be considered, in tracing the effects of the system, whether the gain of one section of the country be equal to the loss of the other. If such were the fact,—if all we lose be gained by the citizens of the other sections, we would, at least, have the satisfaction of thinking that, however unjust and oppressive, it was but a transfer of property, without diminishing the wealth of the community. Such, however, is not the fact; and to its other mischievous consequences we must add, that it destroys much more than it transfers. Industry cannot be forced out of its natural channel without loss; and this, with the injustice, constitutes

the objection to the improper intermeddling of the Government with the private pursuits of individuals, who must understand their own interests better than the Government. The exact loss from such intermeddling, it may be difficult to ascertain, but it is not, therefore, the less certain. The committee will not undertake to estimate the millions, which are annually lost to our country, under the existing system; but some idea may be formed of its magnitude, by stating, that it is, at least, equal to the difference between the profits of our manufacturers, and the duties imposed for their protection, where these are not prohibitory. The lower the profit, and the higher the duty (if not, as stated, prohibitory),—the greater the loss. If, with these certain data, the evidence reported by the Committee on Manufactures at the last session of Congress, be examined, a pretty correct opinion may be formed of the extent of the loss of the country,—provided the manufacturers have fairly stated their case. With a duty of about forty per cent. on the leading articles of consumption (if we are to credit the testimony reported), the manufacturers did not realize, generally, a profit equal to the legal rate of interest; which would give a loss of largely upwards of thirty per cent. to the country on its products. It is different with the foreign articles of the same description. On them, the country, at least, loses nothing. There, the duty passes into the Treasury,—lost, indeed, to the Southern States, out of whose labor, directly or indirectly, it must, for the most part, be paid,—but transferred, through appropriations in a hundred forms, to the pockets of others. It is thus the system is cherished by appropriations; and well may its advocates affirm, that *they* constitute an essential portion of the American System. Let this conduit, through which it is so profusely supplied, be closed, and we feel confident that scarcely a State, except a real manufacturing one, would tolerate its burden. A total prohibition of importations, by cutting off the revenue, and thereby the

means of making appropriations, would, in a short period, destroy it. But the excess of its loss over its gains leads to the consoling reflection, that its abolition would relieve us much more than it would embarrass the manufacturing States. We have suffered too much to desire to see others afflicted, even for our relief, when it can be possibly avoided. We would rejoice to see our manufactures flourish on any constitutional principle, consistent with justice and the public liberty. It is not against them, but the means by which they have been forced, to our ruin, that we object. As far as a moderate system, founded on imposts for revenue, goes, we are willing to afford protection, though we clearly see that, even under such a system, the national revenue would be based on our labor, and be paid by our industry. With such constitutional and moderate protection, the manufacturer ought to be satisfied. His loss would not be so great as might be supposed. If low duties would be followed by low prices, they would also diminish the costs of manufacturing; and thus the reduction of profit would be less in proportion than the reduction of the prices of the manufactured article. Be this, however, as it may, the General Government cannot proceed beyond this point of protection, consistently with its powers, and justice to the whole. If the manufacturing States deem further protection necessary, it is in their power to afford it to their citizens, within their own limits, against foreign competition, to any extent they may judge expedient. The Constitution authorizes them to lay an impost duty, with the assent of Congress, which, doubtless, would be given; and if that be not sufficient, they have the additional and efficient power of giving a direct bounty for their encouragement,—which the ablest writers on the subject concede to be the least burdensome and most effectual mode of encouragement. Thus, they who are to be benefited, will bear the burden, as they ought; and those who believe it is wise and just to protect manufactures, may have

the satisfaction of doing it at their expense, and not at that of their fellow-citizens of the other States, who entertain precisely the opposite opinion.

The committee having presented its views on the partial and oppressive operation of the system, will proceed to discuss the next position which they proposed,—its tendency to corrupt the Government, and to destroy the liberty of the country.

If there be a political proposition universally true,—one which springs directly from the nature of man, and is independent of circumstances,—it is, that irresponsible power is inconsistent with liberty, and must corrupt those who exercise it. On this great principle our political system rests. We consider all powers as delegated by the people, and to be controlled by them, who are interested in their just and proper exercise; and our Governments, both State and General, are but a system of judicious contrivances to bring this fundamental principle into fair, practical operation. Among the most prominent of these is, the responsibility of representatives to their constituents, through frequent periodical elections, in order to enforce a faithful performance of their delegated trust. Without such a check on their powers, however clearly they may be defined and distinctly prescribed, our liberty would be but a mockery. The Government, instead of being directed to the general good, would speedily become but the instrument to aggrandize those who might be intrusted with its administration. On the other hand, if laws were uniform in their operation,—if that which imposed a burden on one, imposed it likewise on all—or that which acted beneficially for one, acted also, in the same manner, for all—the responsibility of representatives to their constituents would alone be sufficient to guard against abuse and tyranny—provided the people be sufficiently intelligent to understand their interest, and the motives and conduct of their public agents. But, if it be supposed that, from di-

versity of interests in the several classes and sections of the country, the laws act differently, so that the same law, though couched in general terms and apparently fair, shall, in reality, transfer the power and property of one class or section to another,—in such case, responsibility to constituents, which is but the means of enforcing fidelity of representatives to them, must prove wholly insufficient to preserve the purity of public agents, or the liberty of the country. It would, in fact, fall short of the evil. The disease would be in the community itself,—in the constituents, and not their representatives. The opposing interests of the community would engender, necessarily, opposing, hostile parties,—organized on this very diversity of interests,—the stronger of which, if the Government provided no efficient check, would exercise unlimited and unrestrained power over the weaker. The relation of equality between the parts of the community, established by the Constitution, would be destroyed, and in its place there would be substituted the relation of sovereign and subject, between the stronger and weaker interests, in its most odious and oppressive form. That this is a possible state of society, even where the representative system prevails, we have high authority. Mr. Hamilton, in the 51st number of the Federalist, says,—"It is of the greatest importance in a republic, not only to guard society against the oppression of its rulers, but to guard one part of society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure." Again—"In a society, under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may be said as truly to reign, as in a state of nature, where the weaker individual is not secured against the violence of the stronger." We have still higher authority,—the unhappy existing example, of which we are the victims. The committee has labored to little purpose,

if they have not demonstrated that the very case, which Mr. Hamilton so forcibly describes, does not now exist in our country, under the name of the AMERICAN SYSTEM,—and which, if not timely arrested, must be followed by all the consequences which never fail to spring from the exercise of irresponsible power. On the great and vital point—the industry of the country—which comprehends almost every interest—the interest of the two great sections is opposed. We want free trade,—they restrictions; we want moderate taxes, frugality in the Government, economy, accountability, and a rigid application of the public money to the payment of the debt, and to the objects authorized by the Constitution. In all these particulars, if we may judge by experience, their views of their interest are precisely the opposite. They feel and act, on all questions connected with the American System, as sovereigns,—as men invariably do who impose burdens on others for their own benefit; and we, on the other hand, like those on whom such burdens are imposed. In a word, to the extent stated, the country is divided and organized into two great parties—the one sovereign and the other subject—bearing towards each other all the attributes which must ever accompany that relation, under whatever form it may exist. That our industry is controlled by many, instead of one,—by a majority in Congress, *elected* by a majority in the community having an opposing interest, instead of by *hereditary* rulers,—forms not the slightest mitigation of the evil. In fact, instead of mitigating, it aggravates. In our case, one opposing branch of industry cannot prevail without associating others; and thus, instead of a single act of oppression, we must bear many. The history of the Woollen's Bill will illustrate the truth of this position. The woollen manufacturers found they were too feeble to enforce their exactions alone, and, of necessity, resorted to the expedient, which will ever be adopted in such cases, of associating other interests, till a majority be formed,—and the result of

which, in this case, was, that instead of increased duties on woollens alone—which would have been the fact if that interest alone governed, we have to bear equally increased duties on more than a dozen other of the leading articles of consumption. It would be weakness to attempt to disguise the fact,—on a full knowledge of which, and of the danger it threatens, the hope of devising some means of security depends,—that different and opposing interests do, and must ever exist in all societies, against the evils of which representation opposes not the slightest resistance. Laws, so far from being uniform in their operation, are scarcely ever so. It requires the greatest wisdom and moderation to extend over any country a system of equal laws; and it is this very diversity of interests, which is found in all associations of men for a common purpose, be they private or public, that constitutes the main difficulty in forming and administering free and just governments. It is the door through which despotic power has, heretofore, ever entered, and must ever continue to enter, till some effectual barrier be provided. Without some such, it would be folly to hope for the duration of liberty;—as much so as to expect it without representation itself,—and for the same reason. The essence of liberty comprehends the idea of responsible power,—that those who make and execute the laws should be controlled by those on whom they operate,—that the *governed* should *govern*. To prevent rulers from abusing their trusts, constituents must control them through elections; and to prevent the major from oppressing the minor interests of society, the Constitution must provide (as the committee hope to prove it does) a check, founded on the same principle and equally efficacious. In fact, the abuse of delegated power, and the tyranny of the stronger over the weaker interests, are the two dangers, and the only two to be guarded against; and if this be done effectually, liberty must be eternal. Of the two, the latter is the greater and most difficult to resist.

It is less perceptible. Every circumstance of life teaches us the liability of delegated power to abuse. We cannot appoint an agent without being admonished of the fact; and, therefore, it has become well understood, and is effectually guarded against in our political institutions. Not so as to the latter. Though it in fact exists in all associations, yet the law, the courts, and the Government itself, act as a check to its extreme abuse in most cases of private and subordinate companies, which prevents the full display of its real tendency. But let it be supposed that there was no paramount authority,—no court, no government to control, what sober individual, who expected himself to act honestly, would place his property in joint-stock with any number of individuals, however respectable, to be disposed of by the unchecked will of the majority, whether acting in a body as stockholders, or through representation, by a direction? Who does not see that a major and a minor interest would, sooner or later, spring up, and that the result would be that, after the stronger had divested the feebler of all interest in the concern, they would, in turn, divide until the whole would centre in a single interest? It is the principle which must ever govern such associations; and what is government itself, but a great joint-stock company, which comprehends every interest, and which, as there can be no higher power to restrain its natural operation, must, if not checked within itself, follow the same law? The actual condition of our race in every country, at this and all preceding periods, attests the truth of the remark. No government, based on the naked principle that the majority ought to govern, however true the maxim in its proper sense, and under proper restrictions, can preserve its liberty even for a single generation. The history of all has been the same;—violence, injustice, and anarchy,—succeeded by the government of one, or a few, under which the people seek refuge from the more oppressive despotism of the many. Those governments only which provide

checks,—which limit and restrain within proper bounds the power of the majority, have had a prolonged existence, and been distinguished for virtue, patriotism, power, and happiness; and, what is strikingly true, they have been thus distinguished almost in exact proportion to the number and efficacy of their checks. If arranged in relation to these, we would place them in the order of the Roman, English, Spartan, the United Provinces, the Athenian, and several of the small confederacies of antiquity; and if arranged according to the higher attributes which have been enumerated, they would stand almost precisely in the same order. That this coincidence is not accidental, we may be fully assured. The latest and most profound investigator of the Roman History and Constitution (Niebuhr), has conclusively shown that, after the expulsion of the kings, this great commonwealth continued to decline in power, and was the victim of the most violent domestic struggles, which tainted both public and private morals, till the passage of the Licinian law, which gave to the people an efficient veto through their tribunes, as a check on the predominant power of the Patricians. From that period she began to rise superior to all other States in virtue, patriotism, and power. May we profit by the example, and restore the almost lost virtue and patriotism of the Republic, by giving due efficiency, in practice, to the check which our Constitution has provided against a danger so threatening,—and which constitutes the only efficient remedy against that unconstitutional and dangerous system which the committee have been considering,—as they will now proceed to show.

The committee has demonstrated that the present disordered state of our political system originated in the diversity of interests which exists in the country;—a diversity recognized by the Constitution itself, and to which it owes one of its most distinguished and peculiar features,—the division of the delegated powers between the State and General Govern-

ments. Our short experience, before the formation of the present Government, had conclusively shown that, while there were powers which in their nature were local and peculiar, and which could not be exercised by all, without oppression to some of the parts,—so, also, there were those which, in their operation, necessarily affected the whole, and could not, therefore, be exercised by any of the parts, without affecting injuriously the others. On this different character, by which powers are distinguished in their geographical operation, our political system was constructed. Viewed in relation to them, to a certain extent we have a community of interests, which can only be justly and fairly supervised by concentrating the will and authority of the several States in the General Government; while, at the same time, the States have distinct and separate interests, over which no supervision can be exercised by the general power without injustice and oppression. Hence the division in the exercise of sovereign powers. In drawing the line between the powers of the two—the General and State Governments—the great difficulty consisted in determining correctly to which of the two the various political powers ought to belong. This difficult task was, however, performed with so much success that, to this day, there is an almost entire acquiescence in the correctness with which the line was drawn. It would be extraordinary if a system, thus resting with such profound wisdom on the diversity of geographical interests among the States, should make no provision against the dangers to which its very basis might be exposed. The framers of our Constitution have not exposed themselves to the imputation of such weakness. When their work is fairly examined, it will be found that they have provided, with admirable skill, the most effective remedy; and that, if it has not prevented the danger with which the system is now threatened, the fault is not theirs, but ours, in neglecting to make its proper application. In the primary division of the sovereign powers, and in their

exact and just classification, as stated, are to be found the first provisions or checks against the abuse of authority on the part of the absolute majority. The powers of the General Government are particularly enumerated and specifically delegated; and all powers not expressly delegated, or which are not necessary and proper to carry into effect those that are so granted, are reserved expressly to the States or the people. The Government is thus positively restricted to the exercise of those general powers that were supposed to act uniformly on all the parts,—leaving the residue to the people of the States, by whom alone, from the very nature of these powers, they can be justly and fairly exercised, as has been stated.

Our system, then, consists of two distinct and independent Governments. The general powers, expressly delegated to the General Government, are subject to its sole and separate control; and the States cannot, without violating the constitutional compact, interpose their authority to check, or in any manner to counteract its movements, so long as they are confined to the proper sphere. So, also, the peculiar and local powers reserved to the States are subject to their exclusive control; nor can the General Government interfere, in any manner, with them, without violating the Constitution.

In order to have a full and clear conception of our institutions, it will be proper to remark that there is, in our system, a striking distinction between *Government* and *Sovereignty*. The separate governments of the several States are vested in their Legislative, Executive, and Judicial Departments; while the sovereignty resides in the people of the States respectively. The powers of the General Government are also vested in its Legislative, Executive, and Judicial Departments, while the sovereignty resides in the people of the several States who created it. But, by an express provision of the Constitution, it may be amended or changed by three fourths of the States; and thus each State, by

assenting to the Constitution with this provision, has modified its original right as a sovereign, of making its individual consent necessary to any change in its political condition; and, by becoming a member of the Union, has placed this important power in the hands of three fourths of the States,—in whom the highest power known to the Constitution actually resides. Not the least portion of this high sovereign authority resides in Congress, or any of the departments of the General Government. They are but the creatures of the Constitution, and are appointed but to execute its provisions; and, therefore, any attempt by all, or any of these departments, to exercise any power which, in its consequences, may alter the nature of the instrument, or change the condition of the parties to it, would be an act of usurpation.

It is thus that our political system, resting on the great principle involved in the recognized diversity of geographical interests in the community, has, in theory, with admirable sagacity, provided the most efficient check against their dangers. Looking to facts, the Constitution has formed the States into a community only to the extent of their common interests; leaving them distinct and independent communities as to all other interests, and drawing the line of separation with consummate skill, as before stated. It is manifest that, so long as this beautiful theory is adhered to in practice, the system, like the atmosphere, will press equally on all the parts. But reason and experience teach us that theory of itself, however excellent, is nugatory, unless there be means of efficiently enforcing it in practice;—which brings under consideration the highly important question,—What means are provided by the system for enforcing this fundamental provision?

If we look to the history and practical operation of the system, we shall find, on the side of the States, no means resorted to in order to protect their reserved rights against the encroachments of the General Government; while the

latter has, from the beginning, adopted the most efficient to prevent the States from encroaching on those delegated to them.' The 25th section of the Judiciary Act, passed in 1789,—immediately after the Constitution went into operation,—provides for an appeal from the State courts to the Supreme Court of the United States in all cases, in the decision of which, the construction of the Constitution,—the laws of Congress, or treaties of the United States may be involved; thus giving to that high tribunal the right of final interpretation, and the power, in reality, of nullifying the acts of the State Legislatures whenever, in their opinion, they may conflict with the powers delegated to the General Government. A more ample and complete protection against the encroachments of the governments of the several States cannot be imagined; and to this extent the power may be considered as indispensable and constitutional. But, by a strange misconception of the nature of our system,—and, in fact, of the nature of government,—it has been regarded as the ultimate power, not only of protecting the General Government against the encroachments of the governments of the States, but also of the encroachments of the former on the latter;—and as being, in fact, the only means provided by the Constitution of confining all the powers of the system to their proper constitutional spheres; and, consequently, of determining the limits assigned to each. Such a construction of its powers would, in fact, raise one of the departments of the General Government above the parties who created the constitutional compact, and virtually invest it with the authority to alter, at its pleasure, the relative powers of the General and State Governments, on the distribution of which, as established by the Constitution, our whole system rests;—and which, by an express provision of the instrument, can only be altered by three fourths of the States, as has already been shown. It would go farther. Fairly considered, it would, in effect, divest the people of the States of the sovereign

authority, and clothe that department with the robe of supreme power. A position more false and fatal cannot be conceived. Fortunately, it has been so ably refuted by Mr. Madison, in his Report to the Virginia Legislature in 1800, on the Alien and Sedition Acts, as to supersede the necessity of further comments on the part of the committee. Speaking of the right of the State to interpret the Constitution for itself, in the last resort, he remarks :—"It has been objected that the Judicial Authority is to be regarded as the sole expositor of the Constitution. On this objection, it might be observed,—*first*—that there may be instances of usurped power" (the case of the Tariff is a striking illustration of the truth), "which the forms of the Constitution could never draw within the control of the Judicial Department ;—*secondly*,—that if the decision of the Judiciary be raised above the authority of the sovereign parties to the Constitution, the decision of the other departments, not carried by the forms of the Constitution before the Judiciary, must be equally authoritative and final with the decision of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases in which the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers not delegated, may not only be usurped and exercised by the other departments, but that the Judicial Department also may exercise or sanction dangerous powers beyond the grant of the Constitution ; and consequently, that the ultimate right of the parties to the Constitution to judge whether the compact has been dangerously violated, must extend to violations by one delegated authority as well as by another ; by the Judiciary as well as by the Executive or the Legislative. However true, therefore, it may be that the Judicial Department is, in all questions submitted to it by the forms of the Constitution, to

decide in the last resort, this resort must necessarily be considered the last in relation to the authorities of the other departments of the Government; not in relation to the rights of the parties to the constitutional compact, from which the Judicial and all other departments hold their delegated trusts. On any other hypothesis the delegation of judicial power would annul the authority delegating it; and the concurrence of this department with others in usurped powers might subvert for ever, and beyond the possible reach of any rightful remedy, the very Constitution which all were instituted to preserve."

As a substitute for the rightful remedy, in the last resort, against the encroachments of the General Government on the reserved powers, resort has been had to a rigid construction of the Constitution. A system like ours, of divided powers, must necessarily give great importance to a proper system of construction; but it is perfectly clear that no rule of construction, however perfect, can, in fact, prescribe bounds to the operation of power. All such rules constitute, in fact, but an appeal from the minority to the justice and reason of the majority; and if such appeals were sufficient of themselves to restrain the avarice or ambition of those vested with power, then may a system of technical construction be sufficient to protect against the encroachment of power; but, on such supposition, reason and justice might alone be relied on, without the aid of any constitutional or artificial restraint whatever. Universal experience, in all ages and countries, however, teaches that power can only be restrained by power, and not by reason and justice; and that all restrictions on authority, unsustained by an equal antagonist power, must for ever prove wholly inefficient in practice. Such, also, has been the decisive proof of our own short experience. From the beginning, a great and powerful minority gave every force of which it was susceptible to construction, as a means of restraining the majority of Congress to the exercise of its

proper powers; and though that original minority, through the force of circumstances, has had the advantage of becoming a majority, and to possess, in consequence, the administration of the General Government during the greater portion of its existence, yet we this day witness, under these most favorable circumstances, such an extension of its powers as to leave to the States scarcely a right worth the possessing. In fact, the power of construction, on which its advocates relied to preserve the rights of the States, has been wielded, as it ever must be, if not checked, to destroy those rights. If the minority has a right to prescribe its rule of construction, a majority, on its part, will exercise a similar right; but with this striking difference,—that the right of the former will be a mere nullity against that of the latter. But that protection, which the minor interests must ever fail to find in any technical system of construction, may be found in the reserved rights of the States themselves, if they be properly called into action; and there only will they ever be found of sufficient efficacy. The right of protecting their powers results, necessarily, by the most simple and demonstrative arguments, from the very nature of the relation subsisting between the States and General Government.

If it be conceded, as it must be by every one who is the least conversant with our institutions, that the sovereign powers delegated are divided between the General and State Governments, and that the latter hold their portion by the same tenure as the former, it would seem impossible to deny to the States the right of deciding on the infractions of their powers, and the proper remedy to be applied for their correction. The right of judging, in such cases, is an essential attribute of sovereignty,—of which the States cannot be divested without losing their sovereignty itself,—and being reduced to a subordinate corporate condition. In fact, to divide power, and to give to one of the parties the exclusive right of judging of the portion allotted to each, is, in reality,

not to divide it at all; and to reserve such exclusive right to the General Government (it matters not by what department to be exercised), is to convert it, in fact, into a great consolidated government, with unlimited powers, and to divest the States, in reality, of all their rights. It is impossible to understand the force of terms, and to deny so plain a conclusion. The opposite opinion can be embraced only on hasty and imperfect views of the relation existing between the States and the General Government. But the existence of the right of judging of their powers, so clearly established from the sovereignty of States, as clearly implies a veto or control, within its limits, on the action of the General Government, on contested points of authority; and this very control is the remedy which the Constitution has provided to prevent the encroachments of the General Government on the reserved rights of the States; and by which the distribution of power, between the General and State Governments, may be preserved for ever inviolable, on the basis established by the Constitution. It is thus effectual protection is afforded to the minority, against the oppression of the majority.] Nor does this important conclusion stand on the deduction of reason alone. It is sustained by the highest contemporary authority. Mr. Hamilton, in the number of the Federalist already cited, remarks that,—"in a single republic, all the power surrendered by the people is submitted to the administration of a single government; and usurpations are guarded against, by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other; at the same time that each will be controlled by itself." He thus clearly affirms the control of the States over the General

Government, which he traces to the division in the exercise of the sovereign powers under our political system; and by comparing this control to the veto, which the departments in most of our constitutions respectively exercise over the acts of each other, clearly indicates it as his opinion, that the control between the General and State Governments is of the same character. Mr. Madison is still more explicit. In his report, already alluded to, in speaking on this subject, he remarks;—"The resolutions, having taken this view of the Federal compact, proceed to infer that, in cases of a deliberate, palpable, and dangerous exercise of other powers, not granted by the said compact, the States, who are parties thereto, have the right, and are in duty bound to interpose to arrest the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them. It appears to your committee to be a plain principle, founded in common sense, illustrated by common practice, and essential to the nature of compacts, that where resort can be had to no tribunal superior to the rights of the parties, the parties themselves must be the rightful judges, in the last resort, whether the bargain made has been pursued or violated. The Constitution of the United States was formed by the sanction of the States, given by each in its sovereign capacity. It adds to the stability and dignity, as well as to the authority of the Constitution, that it rests on this solid foundation. The States, then, being parties to the constitutional compact, and in their sovereign capacity, it follows of necessity that there can be no tribunal above their authority to decide, in the last resort, whether the compact made by them be violated; and, consequently, as parties to it, they must themselves decide, in the last resort, such questions as may be of sufficient magnitude to require their interposition." To these the no less explicit opinions of Mr. Jefferson may be added; who, in the Kentucky resolutions on the same subject, which have always been attributed to

him,* states that—"The Government, created by this compact, was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers;—but, as in all other cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

To these authorities, which so explicitly affirm the right of the States, in their sovereign capacity, to decide, in the last resort, on the infraction of their rights and the remedy, there may be added the solemn decisions of the Legislatures of two leading States—Virginia and Kentucky—that the power in question rightfully belongs to the States,—and the implied sanction which a majority of the States gave, in the important political revolution which shortly followed, and brought Mr. Jefferson into power. It is scarcely possible to add to the weight of authority by which this fundamental principle in our system is sustained.

The committee have thus arrived, by what they deem conclusive reasoning, and the highest authority, at the constitutional and appropriate remedy against the unconstitutional oppression under which this, in common with the other staple States, labors,—and the menacing danger which now hangs over the liberty and happiness of our country;—and this brings them to the inquiry,—How is the remedy to be applied by the States? In this inquiry a question may be made,—whether a State can interpose its sovereignty through the ordinary Legislature, but which the committee do not deem it necessary to investigate. It is sufficient that plausible reasons may be assigned against this mode of action, if there be one (and there is one) free from all objections. Whatever doubts may be raised as to the question,—whether

* Not now a matter of doubt. The manuscript, in his own handwriting, has since been published.—*Editor.*

the respective Legislatures fully represent the sovereignty of the States for this high purpose, there can be none as to the fact that a Convention fully represents them for all purposes whatever. Its authority, therefore, must remove every objection as to form, and leave the question on the single point of the right of the States to interpose at all. When convened, it will belong to the Convention itself to determine, authoritatively, whether the acts of which we complain be unconstitutional; and, if so, whether they constitute a violation so deliberate, palpable, and dangerous, as to justify the interposition of the State to protect its rights. If this question be decided in the affirmative, the Convention will then determine in what manner they ought to be declared null and void within the limits of the State; which solemn declaration, based on her rights as a member of the Union, would be obligatory, not only on her own citizens, but on the General Government itself; and thus place the violated rights of the State under the shield of the Constitution.

The committee, having thus established the constitutional right of the States to interpose, in order to protect their reserved powers, it cannot be necessary to bestow much time or attention, in order to meet possible objections;—particularly as they must be raised, not against the soundness of the arguments, by which the position is sustained, and which they deem unanswerable,—but against apprehended consequences, which, even if well founded, would be an objection, not so much to the conclusions of the committee, as to the Constitution itself. They are persuaded that, whatever objection may be suggested, it will be found, on investigation, to be destitute of solidity. Under these impressions, the committee propose to discuss such as they suppose may be urged, with all possible brevity.

It may be objected, then,—in the first place, that the right of the States to interpose rests on mere inference, without any express provision in the Constitution; and that

it is not to be supposed—if the Constitution contemplated the exercise of powers of such high importance—that it would have been left to inference alone. In answer, the committee would ask, whether the power of the Supreme Court to declare a law unconstitutional is not among the very highest and most important that can be exercised by any department of the Government,—and if any express provision can be found to justify its exercise? Like the power in question, it also rests on mere inference;—but an inference so clear, that no express provision could render it more certain. The simple fact, that the Judges must decide according to law, and that the Constitution is paramount to the acts of Congress, imposes a necessity on the court to declare the latter void whenever, in its opinion, they come in conflict, in any particular case, with the former. So, also, in the question under consideration. The right of the States,—even supposing it to rest on inference, stands on clearer and stronger grounds than that of the Court. In the distribution of powers between the General and State Governments, the Constitution professes to *enumerate* those assigned to the former, in whatever department they may be vested; while the powers of the latter are reserved in general terms, without attempt at enumeration. It may, therefore, constitute a presumption against the former,—that the Court has no right to declare a law unconstitutional, because the power is not enumerated among those belonging to the Judiciary;—while the omission to enumerate the power of the States to interpose in order to protect their rights,—being strictly in accord with the principles on which its framers formed the Constitution, raises not the slightest presumption against its existence. Like all other *reserved* rights, it is to be inferred from the simple fact that it is *not delegated*,—as is clearly the case in this instance.

Again—it may be objected to the power, that it is inconsistent with the necessary authority of the General Govern-

ment,—and, in its consequences, must lead to feebleness, anarchy, and finally disunion.

It is impossible to propose any limitation on the authority of governments, without encountering, from the supporters of power, this very objection of feebleness and anarchy: and we accordingly find, that the history of every country which has attempted to establish free institutions, proves that, on this point, the opposing parties—the advocates of power and of freedom—have ever separated. It constituted the essence of the controversy between the Patricians and Plebeians in the Roman Republic,—the Tories and Whigs in England,—the Ultras and Liberals in France,—and, finally, the Federalists and Republicans in our own country,—as illustrated by Mr. Madison's Report;—and if it were proposed to give to Russia or Austria a representation of the people, it would form the point of controversy between the Imperial and Popular parties. It is, in fact, not at all surprising that, to a people unacquainted with the nature of liberty, and inexperienced in its blessings, all limitations on supreme power should appear incompatible with its nature, and as tending to feebleness and anarchy. Nature has not permitted us to doubt the necessity of a paramount power in all institutions. All see and feel it; but it requires some effort of reason to perceive that, if not controlled, such power must necessarily lead to abuse;—and still higher efforts to understand that it may be checked without destroying its efficiency. With us, however, who know from our own experience, and that of other free nations, the truth of these positions, and that power can only be rendered useful and secure by being properly checked,—it is, indeed, strange that any intelligent citizen should consider limitations on the authority of government incompatible with its nature;—or should fear danger from any check properly lodged, which may be necessary to guard against usurpation or abuse, and protect the great and distinct interests of the country. That

there are such interests represented by the States, and that the States are the only competent powers to protect them, has been sufficiently established; and it only remains, in order to meet the objection, to prove that, for this purpose, the States may be safely vested with the right of interposition.

If the committee do not greatly mistake, the checking or veto power never has, in any country, or under any institutions, been lodged where it was less liable to abuse. The great number, by whom it must be exercised, of the people of a State,—the solemnity of the mode,—a Convention specially called for the purpose, and representing the State in her highest capacity,—the delay,—the deliberation,—are all calculated to allay excitement,—to impress on the people a deep and solemn tone, highly favorable to calm investigation and decision. Under such circumstances, it would be impossible for a mere party to maintain itself in the State, unless the violation of its rights be palpable, deliberate, and dangerous. The attitude in which the State would be placed in relation to the other States,—the force of public opinion which would be brought to bear on her,—the deep reverence for the General Government,—the strong influence of all public men who aspire to office or distinction in the Union,—and, above all, the local parties which must ever exist in the State, and which, in this case, must ever throw the powerful influence of the minority on the side of the General Government,—constitute impediments to the exercise of this high protective right of the State, which must render it safe. So powerful, in fact, are these difficulties, that nothing but truth and a deep sense of oppression on the part of the people of the State, will ever sustain the exercise of the power;—and if it should be attempted under other circumstances, it must speedily terminate in the expulsion of those in power, to be replaced by others who would make a merit of closing the controversy, by yielding the point in dispute.

But, in order to understand more fully what its operation really would be in practice, we must take into the estimate the effect which a recognition of the power would have on the tone of feeling, both of the General and State Governments. On the part of the former, it would necessarily produce, in the exercise of doubtful powers, the most marked moderation. In the discussion of measures involving such powers, the argument would be felt with decisive weight, that the State, also, had the right of judging of the constitutionality of the power; which would cause an abandonment of the measure,—or, at least, lead to such modifications as would make it acceptable. On the part of the State, a feeling of conscious security, depending on herself,—with the effect of moderation and kindness on the part of the General Government, would effectually put down jealousy, hatred, and animosity,—and thus give scope to the natural attachment to our institutions, to expand and grow into the full maturity of patriotism. But withhold this protective power from the State, and the reverse of all these happy consequences must follow;—which the committee will not undertake to describe, as the living example of discord, hatred, and jealousy,—threatening anarchy and dissolution, must impress on every beholder a more vivid picture than any they could possibly draw. The continuance of this unhappy state must lead to the loss of all affection;—when the Government must be sustained by *force* instead of *patriotism*. In fact, to him who will duly reflect, it must be apparent that, where there are important separate interests, there is no alternative but a veto to protect them, or the military to enforce the claims of the majority interests.

If these deductions be correct,—as can scarcely be doubted,—under that state of moderation and security, followed by mutual kindness, which must accompany the acknowledgment of the right, the necessity of exercising the veto would rarely exist, and the possibility of its abuse, on

the part of the State, would be almost wholly removed. Its acknowledged existence would thus supersede its exercise. But suppose in this the committee should be mistaken,—still there exists a sufficient security. As high as this right of interposition on the part of a State may be regarded in relation to the General Government, the constitutional compact provides a remedy against its abuse. There is a higher power,—placed above all by the consent of all,—the creating and preserving power of the system,—to be exercised by three fourths of the States,—and which, under the character of the amending power, can modify the whole system at pleasure,—and to the acts of which none can object. Admit, then, the power in question to belong to the States,—and admit its liability to abuse,—and what are the utmost consequences, but to create a presumption against the constitutionality of the power exercised by the General Government,—which, if it be well founded, must compel them to abandon it ;—or, if not, to remove the difficulty by obtaining the contested power in the form of an amendment to the Constitution. If, on an appeal for this purpose, the decision be favorable to the General Government, a disputed power will be converted into an expressly granted power ;—but, on the other hand, if it be adverse, the refusal to grant will be tantamount to an inhibition of its exercise : and thus, in either case, the controversy will be determined. And ought not a sovereign State, as a party to the constitutional compact, and as the guardian of her citizens and her peculiar interests, to have the power in question ? Without it, the amending power must become obsolete, and the Constitution, through the exercise of construction, in the end utterly subverted. Let us examine the case. The disease is, that a majority of the States, through the General Government, by construction, usurp powers not delegated, and by their exercise, increase their wealth and authority at the expense of the minority. How absurd, then, to expect the injured States

to attempt a remedy by proposing an amendment to be ratified by three fourths of the States, when, by supposition, there is a majority opposed to them? Nor would it be less absurd to expect the General Government to propose amendments, unless compelled to that course by the acts of a State. The Government can have no inducement. It has a more summary mode,—the assumption of power by construction. The consequence is clear;—neither would resort to the amending power;—the one, because it would be useless,—and the other, because it could effect its purpose without it;—and thus the highest power known to the Constitution,—on the salutary influence of which, on the operations of our political institutions, so much was calculated, would become, in practice, obsolete, as stated; and in lieu of it, the will of the majority, under the agency of construction, would be substituted, with unlimited and supreme power. On the contrary, giving the right to a State to compel the General Government to abandon its pretensions to a constructive power, or to obtain a positive grant of it, by an amendment to the Constitution, would call efficiently into action, on all important disputed questions, this highest power of the system,—to whose controlling authority no one can object, and under whose operation all controversies between the States and General Government would be adjusted, and the Constitution gradually acquire all the perfection of which it is susceptible. It is thus that the *creating* becomes the *preserving* power; and we may rest assured it is no less true in politics than in theology, that the power which creates can alone preserve,—and that preservation is perpetual creation. Such will be the operation and effect of State interposition.

But it may be objected, that the exercise of the power would have the effect of placing the majority under the control of the minority. If the objection were well founded, it would be fatal. If the majority cannot be trusted, neither

the part of the State, would be almost wholly removed. Its acknowledged existence would thus supersede its exercise. But suppose in this the committee should be mistaken,—still there exists a sufficient security. As high as this right of interposition on the part of a State may be regarded in relation to the General Government, the constitutional compact provides a remedy against its abuse. There is a higher power,—placed above all by the consent of all,—the creating and preserving power of the system,—to be exercised by three fourths of the States,—and which, under the character of the amending power, can modify the whole system at pleasure,—and to the acts of which none can object. Admit, then, the power in question to belong to the States,—and admit its liability to abuse,—and what are the utmost consequences, but to create a presumption against the constitutionality of the power exercised by the General Government,—which, if it be well founded, must compel them to abandon it ;—or, if not, to remove the difficulty by obtaining the contested power in the form of an amendment to the Constitution. If, on an appeal for this purpose, the decision be favorable to the General Government, a disputed power will be converted into an expressly granted power ;—but, on the other hand, if it be adverse, the refusal to grant will be tantamount to an inhibition of its exercise : and thus, in either case, the controversy will be determined. And ought not a sovereign State, as a party to the constitutional compact, and as the guardian of her citizens and her peculiar interests, to have the power in question ? Without it, the amending power must become obsolete, and the Constitution, through the exercise of construction, in the end utterly subverted. Let us examine the case. The disease is, that a majority of the States, through the General Government, by construction, usurp powers not delegated, and by their exercise, increase their wealth and authority at the expense of the minority. How absurd, then, to expect the injured States

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But it may be objected, that the exercise of the power would have the effect of placing the majority under the control of the minority. If the objection were well founded, it would be fatal. If the majority cannot be trusted, neither

can the minority: and to transfer power from the former to the latter, would be but the repetition of the old error, in taking shelter under monarchy or aristocracy, against the more oppressive tyranny of an illy constructed republic. But it is not the consequence of proper checks to change places between the majority and minority. It leaves the power controlled still independent; as is exemplified in our political institutions, by the operation of acknowledged checks. The power of the Judiciary to declare an act of Congress, or of a State Legislature, unconstitutional, is, for its appropriate purpose, a most efficient check; but who that is acquainted with the nature of our Government ever supposed that it ever really vested (when confined to its proper object) a supreme power in the Court over Congress or the State Legislatures? Such was neither the intention, nor is it the effect.

The Constitution has provided another check, which will still further illustrate the nature of their operation. Among the various interests which exist under our complex system, that of large and small States is, perhaps, the most prominent, and among the most carefully guarded in the organization of our Government. To settle the relative weight of the States in the system, and to secure to each the means of maintaining its proper political consequence in its operation, formed one of the most difficult duties in framing the Constitution. No one subject occupied greater space in the proceedings of the Convention. In its final adjustment, the large States had assigned to them a preponderating influence in the House of Representatives, by having therein a weight proportioned to their numbers; but to compensate which, and to secure their political rights against this preponderance, the small States had an equality assigned them in the Senate; while, in the constitution of the Executive branch, the two were blended. To secure the consequence allotted to each, as well as to insure due deliberation in legislating, a veto is

allowed to each in the passage of bills; but it would be absurd to suppose that this veto placed either above the other; or was incompatible with the portion of the sovereign power intrusted to the House, the Senate, or the President.

It is thus that our system has provided appropriate checks between the Departments,—a veto to guard the supremacy of the Constitution over the laws, and to preserve the due importance of the States, considered in reference to large and small, without creating discord or weakening the beneficent energy of the Government. And so, also, in the division of the sovereign authority between the General and State Governments,—by leaving to the States an efficient power to protect, by a veto, the minor against the major interests of the community, the framers of the Constitution acted in strict conformity with the principle which invariably prevails throughout the whole system, where separate interests exist. They were, in truth, no ordinary men. They were wise and practical statesmen, enlightened by history and their own enlarged experience, acquired in conducting our country through a most important revolution;—and understood profoundly the nature of man and of government. They saw and felt that there existed in our nature the necessity of government, and government of adequate powers;—that the selfish predominate over the social feelings; and that, without a government of such powers, universal conflict and anarchy must prevail among the component parts of society; but they also clearly saw that, our nature remaining unchanged by change of condition, unchecked power, from this very predominance of the selfish over the social feelings, which rendered government necessary, would, of necessity, lead to corruption and oppression on the part of those vested with its exercise. Thus the necessity of government and of checks originates in the same great principle of our nature; and thus the very selfishness which impels those who have power to desire more, will also, with equal force, impel those

on whom power operates to resist aggression; and on the balance of these opposing tendencies, liberty and happiness must for ever depend. This great principle guided in the formation of every part of our political system. There is not one opposing interest throughout the whole that is not counterpoised. Have the rulers a separate interest from the people? To check its abuse, the relation of representative and constituent is created between them, through periodical elections, by which the fidelity of the representative to the constituent is secured. Have the States, as members of the Union, distinct political interests in reference to their magnitude? Their relative weight is carefully settled, and each has its appropriate agent, with a veto on each other, to protect its political consequence. May there be a conflict between the Constitution and the laws, whereby the rights of citizens may be affected? A remedy may be found in the power of the courts to declare the law unconstitutional in such cases as may be brought before them. Are there, among the several States, separate and peculiar geographical interests? To meet this, a particular organization is provided in the division of the sovereign powers between the State and General Governments. Is there danger, growing out of this division, that the State Legislatures may encroach on the powers of the General Government? The authority of the Supreme Court is adequate to check such encroachments. May the General Government, on the other hand, encroach on the rights reserved to the States respectively? To the States respectively—each in its sovereign capacity—is reserved the power, by its veto, or right of interposition, to arrest the encroachment. And, finally, may this power be abused by a State, so as to interfere improperly with the powers delegated to the General Government? There is provided a power, even over the Constitution itself, vested in three fourths of the States, which Congress has the authority to invoke, and may terminate all controversies in reference,

to the subject, by granting or withholding the right in contest. Its authority is acknowledged by all; and to deny or resist it, would be, on the part of the State, a violation of the constitutional compact, and a dissolution of the political association, as far as it is concerned. This is the ultimate and highest power,—and the basis on which the whole system rests.

That there exists a case which would justify the interposition of this State, in order to compel the General Government to abandon an unconstitutional power, or to appeal to this high authority to confer it by express grant, the committee do not in the least doubt; and they are equally clear in the necessity of its exercise, if the General Government should continue to persist in its improper assumption of powers belonging to the State;—which brings them to the last point they propose to consider,—viz.: When would it be proper to exercise this high power?

If the committee were to judge only by the magnitude of the interests at stake, they would, without hesitation, recommend the call of a Convention without delay. But they deeply feel the obligation of respect for the other members of the confederacy, and the necessity of great moderation and forbearance in the exercise even of the most unquestionable right, between parties who stand connected by the closest and most sacred political compact. With these sentiments, they deem it advisable, after presenting the views of the Legislature in this solemn manner (if the body concur with the committee), to allow time for further consideration and reflection, in the hope that a returning sense of justice on the part of the majority, when they come to reflect on the wrongs which this and the other staple States have suffered, and are suffering, may repeal the obnoxious and unconstitutional acts,—and thereby prevent the necessity of interposing the veto of the State.

The committee are further induced, at this time, to re-

commend this course, under the hope that the great political revolution, which will displace from power, on the 4th of March next, those who have acquired authority by setting the will of the people at defiance,—and which will bring in an eminent citizen, distinguished for his services to his country, and his justice and patriotism, may be followed up, under his influence, with a complete restoration of the pure principles of our Government. But, in thus recommending delay, the committee wish it to be distinctly understood, that neither doubts of the rightful power of the State, nor apprehension of consequences, constitute the smallest part of their motives. They would be unworthy of the name of freemen,—of Americans,—of Carolinians, if danger, however great, could cause them to shrink from the maintenance of their constitutional rights. But they deem it preposterous to anticipate danger under a system of laws, where a sovereign party to the compact, which formed the Government, exercises a power which, after the fullest investigation, she conscientiously believes to belong to her under the guarantee of the Constitution itself,—and which is essential to the preservation of her sovereignty. The committee deem it not only the right of the State, but her duty, under the solemn sanction of an oath, to interpose, if no other remedy be applied. They interpret the oath to defend the Constitution, not simply as imposing an obligation to abstain from violation, but to prevent it on the part of others. In their opinion, he is as guilty of violating that sacred instrument, who permits an infraction, when it is in his power to prevent it, as he who actually perpetrates the violation. The one may be bolder, and the other more timid,—but the sense of duty must be weak in both.

With these views the committee are solemnly of the impression,—if the present usurpations and the professed doctrines of the existing system be persevered in,—after due forbearance on the part of the State,—that it will be her

sacred duty to interpose;—a duty to herself,—to the Union,—to the present, and to future generations,—and to the cause of liberty over the world, to arrest the progress of a usurpation which, if not arrested, must, in its consequences, corrupt the public morals and destroy the liberty of the country.

[NOTE.—The above is indorsed, in the handwriting of the author,—"*Rough draft of what is called the* SOUTH CAROLINA EXPOSITION." On the concluding page is written in the same hand:

"*Concluded by a few remarks on the proposition for the State to impose an excise duty on protected articles, and on her consumption of the same. The first disapproved, and the last approved.*

"*And, finally, with sundry resolutions.*"

These "remarks" are not preserved; nor the resolutions which accompanied the report. The committee, to whom the subject was referred, reported a series of resolutions, which the reader will find below. Whether they be identical with those referred to, is a matter of conjecture. Those reported and adopted are in the following words]:—

PROTEST.

The Senate and House of Representatives of South Carolina, now met and sitting in General Assembly, through the Hon. William Smith and the Hon. Robert Y. Hayne, their Representatives in the Senate of the United States, do, in the name and on behalf of the good people of the said Commonwealth, solemnly protest against the system of protecting duties, lately adopted by the Federal Government, for the following reasons:—

1st. Because the good people of this commonwealth believe, that the powers of Congress were delegated to it, in trust for the accomplishment of certain specified objects which limit and control them, and that every exercise of them, for any other purposes, is a violation of the Constitution as unwarrantable as the undisguised assumption of substantive, independent powers not granted, or expressly withheld.

2d. Because the power to lay duties on imports is, and in its very nature can be, only a means of effecting objects specified by the Constitution; since no free government, and least of all a government of enumerated powers, can, of right, impose any tax, any more than a penalty, which is not at once justified by public necessity and clearly within the scope and purview of the social compact; and since the right of confining appropriations of the public money to such legitimate and constitutional

objects is as essential to the liberties of the people, as their unquestionable privilege to be taxed only by their own consent.

3d. Because they believe that the Tariff Law passed by Congress at its last session, and all other acts of which the principal object is the protection of manufactures, or any other branch of domestic industry, if they be considered as the exercise of a supposed power in Congress to tax the people at its own good will and pleasure, and to apply the money raised to objects not specified in the Constitution, is a violation of these fundamental principles, a breach of a well-defined trust, and a perversion of the high powers vested in the Federal Government for federal purposes only.

4th. Because such acts, considered in the light of a regulation of commerce, are equally liable to objection—since, although the power to regulate commerce, may like other powers be exercised so as to protect domestic manufactures, yet it is clearly distinguishable from a power to do so, *eo nomine*, both in the nature of the thing and in the common acceptation of the terms; and because the confounding of them would lead to the most extravagant results, since the encouragement of domestic industry implies an absolute control over all the interests, resources, and pursuits of a people, and is inconsistent with the idea of any other than a simple, consolidated government.

5th. Because, from the contemporaneous exposition of the Constitution in the numbers of the Federalist (which is cited only because the Supreme Court has recognized its authority), it is clear that the power to regulate commerce was considered by the Convention as only incidentally connected with the encouragement of agriculture and manufactures; and because the power of laying imposts and duties on imports, was not understood to justify, in any case, a prohibition of foreign commodities, except as a means of extending commerce, by coercing foreign nations to a fair reciprocity in their intercourse with us, or for some other bona fide commercial purpose.

6th. Because, whilst the power to protect manufactures is nowhere expressly granted to Congress, nor can be considered as necessary and proper to carry into effect any specified power, it seems to be expressly reserved to the States, by the tenth section of the first article of the Constitution.

7th. Because, even admitting Congress to have a constitutional right to protect manufactures by the imposition of duties or by regulations of commerce, designed principally for that purpose, yet a Tariff, of which the operation is grossly unequal and oppressive, is such an abuse of power, as is incompatible with the principles of a free government and the great ends of civil society,—justice, and equality of rights and protection.

8th. Finally, because South Carolina, from her climate, situation, and peculiar institutions, is, and must ever continue to be, wholly dependent upon agriculture and commerce, not only for her prosperity, but for her very existence as a State—because the valuable products of her soil—the blessings by which Divine Providence seems to have designed to compensate for the great disadvantages under which she suffers in other respects—are among the very few that can be cultivated with any profit by slave labor—and if, by the loss of her foreign commerce, these products should be confined to an inadequate market, the fate of this fertile State would be poverty and utter desolation; her citizens, in despair, would emigrate to more fortunate regions, and the whole frame and constitution of her civil polity, be impaired and deranged, if not dissolved entirely.

Deeply impressed with these considerations, the representatives of the good people of this commonwealth, anxiously desiring to live in peace with their fellow-citizens, and to do all that in them lies to preserve and perpetuate the union of the States and the liberties of which it is the surest pledge,—but feeling it to be their bounden duty to expose and resist all encroachments upon the true spirit of the Constitution, lest an apparent acquiescence in the system of protecting duties should be drawn into precedent,—do, in the name of the commonwealth of South Carolina, claim to enter upon the journals of the Senate, their protest against it as unconstitutional, oppressive, and unjust.

Which Exposition and Protest are respectfully submitted.

J. Gregg, *Chairman.*

ADDRESS

On the relation which the States and General Government bear to each other.

The question of the relation which the States and General Government bear to each other is not one of recent origin. From the commencement of our system, it has divided public sentiment. Even in the Convention, while the Constitution was struggling into existence, there were two parties as to what this relation should be, whose different

sentiments constituted no small impediment in forming that instrument. After the General Government went into operation, experience soon proved that the question had not terminated with the labors of the Convention. The great struggle that preceded the political revolution of 1801, which brought Mr. Jefferson into power, turned essentially on it, and the doctrines and arguments on both sides were embodied and ably sustained ;—on the one, in the Virginia and Kentucky Resolutions, and the Report to the Virginia Legislature ;—and on the other, in the replies of the Legislature of Massachusetts and some of the other States. These Resolutions and this Report, with the decision of the Supreme Court of Pennsylvania about the same time (particularly in the case of Cobbett, delivered by Chief Justice M'Kean, and concurred in by the whole bench), contain what I believe to be the true doctrine on this important subject. I refer to them in order to avoid the necessity of presenting my views, with the reasons in support of them, in detail.

As my object is simply to state my opinions, I might pause with this reference to documents that so fully and ably state all the points immediately connected with this deeply-important subject ; but as there are many who may not have the opportunity or leisure to refer to them, and as it is possible, however clear they may be, that different persons may place different interpretations on their meaning, I will, in order that my sentiments may be fully known, and to avoid all ambiguity, proceed to state, summarily, the doctrines which I conceive they embrace.

The great and leading principle is, that the General Government emanated from the people of the several States, forming distinct political communities, and acting in their separate and sovereign capacity, and not from all of the people forming one aggregate political community ; that the Constitution of the United States is, in fact, a compact, to which each State is a party, in the character already de-

scribed; and that the several States, or parties, have a right to judge of its infractions; and in case of a deliberate, palpable, and dangerous exercise of power not delegated, they have the right, in the last resort, to use the language of the Virginia Resolutions, "*to interpose for arresting the progress of the evil, and for maintaining, within their respective limits, the authorities, rights, and liberties appertaining to them.*" This right of interposition, thus solemnly asserted by the State of Virginia, be it called what it may,—State-right, veto, nullification, or by any other name,—I conceive to be the fundamental principle of our system, resting on facts historically as certain as our revolution itself, and deductions as simple and demonstrative as that of any political or moral truth whatever; and I firmly believe that on its recognition depend the stability and safety of our political institutions.

I am not ignorant that those opposed to the doctrine have always, now and formerly, regarded it in a very different light, as anarchical and revolutionary. Could I believe such, in fact, to be its tendency, to me it would be no recommendation. I yield to none, I trust, in a deep and sincere attachment to our political institutions and the union of these States. I never breathed an opposite sentiment; but, on the contrary, I have ever considered them the great instruments of preserving our liberty, and promoting the happiness of ourselves and our posterity; and next to these I have ever held them most dear. Nearly half my life has been passed in the service of the Union, and whatever public reputation I have acquired is indissolubly identified with it. To be too national has, indeed, been considered by many, even of my friends, my greatest political fault. With these strong feelings of attachment, I have examined, with the utmost care, the bearing of the doctrine in question; and, so far from anarchical or revolutionary, I solemnly believe it to be the only solid foundation of our system, and of the Union itself; and that the opposite doctrine, which denies to the

States the right of protecting their reserved powers, and which would vest in the General Government (it matters not through what department) the right of determining, exclusively and finally, the powers delegated to it, is incompatible with the sovereignty of the States, and of the Constitution itself, considered as the basis of a Federal Union. As strong as this language is, it is not stronger than that used by the illustrious Jefferson, who said, to give to the General Government the final and exclusive right to judge of its powers, is to make "*its discretion*, and *not the Constitution, the measure of its powers;*" and that, "*in all cases of compact between parties having no common judge, each party has an equal right to judge for itself, as well of the infraction as of the mode and measure of redress.*" Language cannot be more explicit, nor can higher authority be adduced.

That different opinions are entertained on this subject, I consider but as an additional evidence of the great diversity of the human intellect. Had not able, experienced, and patriotic individuals, for whom I have the highest respect, taken different views, I would have thought the right too clear to admit of doubt; but I am taught by this, as well as by many similar instances, to treat with deference opinions differing from my own. The error may, possibly, be with me; but if so, I can only say that, after the most mature and conscientious examination, I have not been able to detect it. But, with all proper deference, I must think that theirs is the error who deny what seems to be an essential attribute of the conceded sovereignty of the States, and who attribute to the General Government a right utterly incompatible with what all acknowledge to be its limited and restricted character: an error originating principally, as I must think, in not duly reflecting on the nature of our institutions, and on what constitutes the only rational object of all political constitutions.

It has been well said by one of the most sagacious men

of antiquity, that the object of a constitution is, to *restrain the government, as that of laws* is to restrain *individuals*. The remark is correct; nor is it less true where the government is vested in a majority, than where it is in a single or a few individuals—in a republic, than a monarchy or aristocracy. No one can have a higher respect for the maxim that the majority ought to govern than I have, taken in its proper sense, subject to the restrictions imposed by the Constitution, and confined to objects in which every portion of the community have similar interests; but it is a great error to suppose, as many do, that the right of a majority to govern is a natural and not a conventional right, and therefore absolute and unlimited. By nature, every individual has the right to govern himself; and governments, whether founded on majorities or minorities, must derive their right from the assent, expressed or implied, of the governed, and be subject to such limitations as they may impose. Where the interests are the same, that is, where the laws that may benefit one will benefit all, or the reverse, it is just and proper to place them under the control of the majority; but where they are dissimilar, so that the law that may benefit one portion may be ruinous to another, it would be, on the contrary, unjust and absurd to subject them to its will; and such I conceive to be the theory on which our Constitution rests.

That such dissimilarity of interests may exist, it is impossible to doubt. They are to be found in every community, in a greater or less degree, however small or homogeneous; and they constitute every where the great difficulty of forming and preserving free institutions. To guard against the unequal action of the laws, when applied to dissimilar and opposing interests, is, in fact, what mainly renders a constitution indispensable; to overlook which, in reasoning on our Constitution, would be to omit the principal element by which to determine its character. Were there no contrariety of interests, nothing would be more simple and easy

than to form and preserve free institutions. The right of suffrage alone would be a sufficient guarantee. It is the conflict of opposing interests which renders it the most difficult work of man.

Where the diversity of interests exists in separate and distinct classes of the community, as is the case in England, and was formerly the case in Sparta, Rome, and most of the free States of antiquity, the rational constitutional provision is, that each should be represented in the government, as a separate estate, with a distinct voice, and a negative on the acts of its co-estates, in order to check their encroachments. In England, the Constitution has assumed expressly this form, while in the governments of Sparta and Rome, the same thing was effected under different, but not much less efficacious forms. The perfection of their organization, in this particular, was that which gave to the constitutions of these renowned States all their celebrity, which secured their liberty for so many centuries, and raised them to so great a height of power and prosperity. Indeed, a constitutional provision giving to the great and separate interests of the community the right of self-protection, must appear, to those who will duly reflect on the subject, not less essential to the preservation of liberty than the right of suffrage itself. They, in fact, have a common object, to effect which the one is as necessary as the other to secure *responsibility;* that is, *that those who make and execute the laws should be accountable to those on whom the laws in reality operate—the only solid and durable foundation of liberty.* If, without the right of suffrage, our rulers would oppress us, so, without the right of self-protection, the major would equally oppress the minor interests of the community. The absence of the former would make the governed the slaves of the rulers; and of the latter, the feebler interests, the victim of the stronger.

Happily for us, we have no artificial and separate classes of society. We have wisely exploded all such distinctions

but we are not, on that account, exempt from all contrariety of interests, as the present distracted and dangerous condition of our country, unfortunately, but too clearly proves. With us they are almost exclusively geographical, resulting mainly from difference of climate, soil, situation, industry, and production; but are not, therefore, less necessary to be protected by an adequate constitutional provision, than where the distinct interests exist in separate classes. The necessity is, in truth, greater, as such separate and dissimilar geographical interests are more liable to come into conflict, and more dangerous, when in that state, than those of any other description: so much so, that *ours is the first instance on record where they have not formed, in an extensive territory, separate and independent* communities, *or subjected the whole to despotic sway.* That such may not be our unhappy fate also, must be the sincere prayer of every lover of his country.

So numerous and diversified are the interests of our country, that they could not be fairly represented in a single government, organized so as to give to each great and leading interest a separate and distinct voice, as in governments to which I have referred. A plan was adopted better suited to our situation, but perfectly novel in its character. The powers of government were divided, not, as heretofore, in reference to classes, but geographically. One General Government was formed for the whole, to which were delegated all the powers supposed to be necessary to regulate the interests common to all the States, leaving others subject to the separate control of the States, being, from their local and peculiar character, such that they could not be subject to the will of a majority of the whole Union, without the certain hazard of injustice and oppression. It was thus that the interests of the whole were subjected, as they ought to be, to the will of the whole, while the peculiar and local interests were left under the control of the States separately, to whose custody only they could be safely confided. This

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than to form and preserve free institutions. The right of suffrage alone would be a sufficient guarantee. It is the conflict of opposing interests which renders it the most difficult work of man.

Where the diversity of interests exists in separate and distinct classes of the community, as is the case in England, and was formerly the case in Sparta, Rome, and most of the free States of antiquity, the rational constitutional provision is, that each should be represented in the government, as a separate estate, with a distinct voice, and a negative on the acts of its co-estates, in order to check their encroachments. In England, the Constitution has assumed expressly this form, while in the governments of Sparta and Rome, the same thing was effected under different, but not much less efficacious forms. The perfection of their organization, in this particular, was that which gave to the constitutions of these renowned States all their celebrity, which secured their liberty for so many centuries, and raised them to so great a height of power and prosperity. Indeed, a constitutional provision giving to the great and separate interests of the community the right of self-protection, must appear, to those who will duly reflect on the subject, not less essential to the preservation of liberty than the right of suffrage itself. They, in fact, have a common object, to effect which the one is as necessary as the other to secure *responsibility;* that is, *that those who make and execute the laws should be accountable to those on whom the laws in reality operate—the only solid and durable foundation of liberty.* If, without the right of suffrage, our rulers would oppress us, so, without the right of self-protection, the major would equally oppress the minor interests of the community. The absence of the former would make the governed the slaves of the rulers; and of the latter, the feebler interests, the victim of the stronger.

Happily for us, we have no artificial and separate classes of society. We have wisely exploded all such distinctions;

but we are not, on that account, exempt from all contrariety of interests, as the present distracted and dangerous condition of our country, unfortunately, but too clearly proves. With us they are almost exclusively geographical, resulting mainly from difference of climate, soil, situation, industry, and production; but are not, therefore, less necessary to be protected by an adequate constitutional provision, than where the distinct interests exist in separate classes. The necessity is, in truth, greater, as such separate and dissimilar geographical interests are more liable to come into conflict, and more dangerous, when in that state, than those of any other description: so much so, that *ours is the first instance on record where they have not formed, in an extensive territory, separate and independent* communities, *or subjected the whole to despotic sway.* That such may not be our unhappy fate also, must be the sincere prayer of every lover of his country.

So numerous and diversified are the interests of our country, that they could not be fairly represented in a single government, organized so as to give to each great and leading interest a separate and distinct voice, as in governments to which I have referred. A plan was adopted better suited to our situation, but perfectly novel in its character. The powers of government were divided, not, as heretofore, in reference to classes, but geographically. One General Government was formed for the whole, to which were delegated all the powers supposed to be necessary to regulate the interests common to all the States, leaving others subject to the separate control of the States, being, from their local and peculiar character, such that they could not be subject to the will of a majority of the whole Union, without the certain hazard of injustice and oppression. It was thus that the interests of the whole were subjected, as they ought to be, to the will of the whole, while the peculiar and local interests were left under the control of the States separately, to whose custody only they could be safely confided. This

distribution of power, settled solemnly by a constitutional compact, to which all the States are parties, constitutes the peculiar character and excellence of our political system. It is truly and emphatically *American, without example or parallel.*

To realize its perfection, we must view the General Government and those of the States as a whole, each in its proper sphere independent; each perfectly adapted to its respective objects; the States acting separately, representing and protecting the local and peculiar interests; and acting jointly through one General Government, with the weight respectively assigned to each by the Constitution, representing and protecting the interest of the whole; and thus perfecting, by an admirable but simple arrangement, the great principle of representation and responsibility, without which no government can be free or just. To preserve this sacred distribution as originally settled, by coercing each to move in its prescribed orbit, is the great and difficult problem, on the solution of which the duration of our Constitution, of our Union, and, in all probability, our liberty depends. How is this to be effected?

The question is new, when applied to our peculiar political organization, where the separate and conflicting interests of society are represented by distinct but connected governments; but it is, in reality, an old question under a new form, long since perfectly solved. Whenever separate and dissimilar interests have been separately represented in any government; whenever the sovereign power has been divided in its exercise, the experience and wisdom of ages have devised but one mode by which such political organization can be preserved,—the mode adopted in England, and by all governments, ancient and modern, blessed with constitutions deserving to be called free,—to give to each co-estate the right to judge of its powers, with a negative or veto on the acts of the others, in order to protect against encroachment

the interests it particularly represents: a principle which all of our constitutions recognize in the distribution of power among their respective departments, as essential to maintain the independence of each; but which, to all who will duly reflect on the subject, must appear far more essential, for the same object, in that great and fundamental distribution of powers between the General and State Governments. So essential is the principle, that, to withhold the right from either, where the sovereign power is divided, is, in fact, *to annul the division* itself, and to *consolidate*, in the one left in the exclusive possession of the right, *all* powers of government; for it is not possible to distinguish, practically, between a government having all power, and one having the right to take what powers it pleases. Nor does it in the least vary the principle, whether the distribution of power be between co-estates, as in England, or between distinctly organized but connected governments, as with us. The reason is the same in both cases, while the necessity is greater in our case, as the danger of conflict is greater where the interests of a society are divided geographically than in any other, as has already been shown.

These truths do seem to me to be incontrovertible; and I am at a loss to understand how any one, who has maturely reflected on the nature of our institutions, or who has read history or studied the principles of free government to any purpose, can call them in question. The explanation must, it appears to me, be sought in the fact that, in every free State there are those who look more to the necessity of maintaining power than guarding against its abuses. I do not intend reproach, but simply to state a fact apparently necessary to explain the contrariety of opinions among the intelligent, where the abstract consideration of the subject would seem scarcely to admit of doubt. If such be the true cause, I must think the fear of weakening the government too much, in this case, to be in a great measure unfounded, or, at least,

that the danger is much less from that than the opposite side. I do not deny that a power of so high a nature may be abused by a State; but when I reflect that the States unanimously called the General Government into existence with all its powers, which they freely delegated on their part, under the conviction that their common peace, safety, and prosperity required it; that they are bound together by a common origin, and the recollection of common suffering and common triumph in the great and splendid achievement of their independence; and that the strongest feelings of our nature, and among them the love of national power and distinction, are on the side of the Union, it does seem to me that the fear which would strip the States of their sovereignty, and degrade them, in fact, to mere dependent corporations, lest they should abuse a right indispensable to the peaceable protection of those interests which they reserved under their own peculiar guardianship when they created the General Government, is unnatural and unreasonable. If those who voluntarily created the system cannot be trusted to preserve it, who can?

So far from extreme danger, I hold that there never was a free State in which this great conservative principle, indispensable to all, was ever so safely lodged. In others, when the co-estates representing the dissimilar and conflicting interests of the community came into contact, the only alternative was compromise, submission, or force. Not so in ours. Should the General Government and a State come into conflict, we have a higher remedy: the power which called the General Government into existence, which gave it all its authority, and can enlarge, contract, or abolish its powers at its pleasure, may be invoked. The States themselves may be appealed to,—three fourths of which, in fact, form a power, whose decrees are the Constitution itself, and whose voice can silence all discontent. The utmost extent, then, of the power is, that a State, acting in its sovereign capacity as

one of the parties to the constitutional compact, may compel the Government, created by that compact, to submit a question touching its infraction, to the parties who created it; to avoid the supposed dangers of which, it is proposed to resort to the novel, the hazardous, and, I must add, fatal project of giving to the General Government the sole and final right of interpreting the Constitution;—thereby reversing the whole system, making that instrument the creature of its will, instead of a rule of action impressed on it at its creation, and annihilating, in fact, the authority which imposed it, and from which the Government itself derives its existence.

That such would be the result, were the right in question vested in the Legislative or Executive branch of the Government, is conceded by all. No one has been so hardy as to assert that Congress or the President ought to have the right, or deny that, if vested finally and exclusively in either, the consequences which I have stated would necessarily follow; but its advocates have been reconciled to the doctrine, on the supposition that there is one department of the General Government which, from its peculiar organization, affords an independent tribunal, through which the Government may exercise the high authority which is the subject of consideration, with perfect safety to all.

I yield, I trust, to few in my attachment to the Judiciary Department. I am fully sensible of its importance, and would maintain it, to the fullest extent, in its constitutional powers and independence; but it is impossible for me to believe it was ever intended by the Constitution that it should exercise the power in question, or that it is competent to do so; and, if it were, that it would be a safe depository of the power.

Its powers are judicial, and not political; and are expressly confined by the Constitution "to all *cases* in law and equity arising under this Constitution, the laws of the United States, and the treaties made, or which shall be made, under

its authority;" and which I have high authority in asserting excludes political questions, and comprehends those only where there are parties amenable to the process of the court.* Nor is its incompetency less clear than its want of constitutional authority. There may be many, and the most dangerous infractions on the part of Congress, of which, it is conceded by all, the court, as a judicial tribunal, cannot, from its nature, take cognizance. The Tariff itself is a strong case in point; and the reason applies equally *to all others where Congress perverts a power from an object intended, to one not intended, the most insidious and dangerous of all infractions; and which may be extended to all of its powers, more especially to the taxing and appropriating.* But, supposing it competent to take cognizance of all infractions of every description, the insuperable objection still remains, that it would not be a safe tribunal to exercise the power in question.

It is a universal and fundamental political principle, that the power to protect can safely be confided only to those interested in protecting, or their responsible agents,—a maxim not less true in private than in public affairs. The danger in our system is, that the General Government, which represents the interests of the whole, may encroach on the States,

* I refer to the authority of Chief Justice Marshall, in the case of Jonathan Robbins. I have not been able to refer to the speech, and speak from memory.*

* The following are the remarks referred to by Mr. Calhoun:—

"By extending the judicial power to all cases in law and equity, the Constitution *had never been understood* to confer on that department any *political power whatever.* To come within this description, a question must assume a *legal* form, for forensic litigation and judicial decision. There must be parties to come into court, who can be reached by its process, and bound by its power; whose rights admit of ultimate decision by a tribunal, to which they are bound to submit. A 'case in Law and Equity,' proper for judicial decision, may arise under a treaty, where the *rights of individuals*, acquired or secured by a treaty, are to be asserted or defended in court;—as under the fourth and sixth articles of the treaty of peace with Great Britain; or under those articles of our late treaties with France, Prussia, and other nations, which secure to *the subjects* of these nations *their property* within the United States; but the *judicial power cannot extend to political compacts.*" Speech in the House of Representatives, in the case of Thomas Nash, *alias* Jonathan Robbins, Sept. 1797.—*Editor.*

which represent the peculiar and local interests, or that the latter may encroach on the former.

In examining this point, we ought not to forget that the Government, through all its departments, judicial as well as others, is administered by delegated and responsible agents; and that the *power which really controls, ultimately, all the movements, is not in the agents, but those who elect or appoint them.* To understand, then, its real character, and what would be the action of the system in any supposable case, we must raise our view from the mere agents to this high controlling power, which finally impels every movement of the machine. By doing so, we shall find all under the control of the will of a majority, compounded of the majority of the States, taken as political bodies, and the majority of the people of the States, estimated in federal numbers. These, united, constitute the real and final power which impels and directs the movements of the General Government. The majority of the States elect the majority of the Senate; of the people of the States, that of the House of Representatives; the two united, the President; and the President and a majority of the Senate appoint the judges: a majority of whom, and a majority of the Senate and House, with the President, really exercise all the powers of the Government, with the exception of the cases where the Constitution requires a greater number than a majority. The judges are, in fact, as truly the judicial representatives of this united majority, as the majority of Congress itself, or the President, is its legislative or executive representative; and to confide the power to the Judiciary to determine finally and conclusively what powers are delegated and what reserved, would be, in reality, to confide it to the majority, whose agents they are, and by whom they can be controlled in various ways; and, of course, to subject (against the fundamental principle of our system and all sound political reasoning) the reserved powers of the States, with all the local and peculiar interests

they were intended to protect, to the will of the very majority against which the protection was intended. Nor will the tenure by which the judges hold their office, however valuable the provision in many other respects, materially vary the case. Its highest possible effect would be to *retard*, and not *finally* to *resist*, the will of a dominant majority.

But it is useless to multiply arguments. Were it possible that reason could settle a question where the passions and interests of men are concerned, this point would have been long since settled for ever by the State of Virginia. The report of her Legislature, to which I have already referred, has really, in my opinion, placed it beyond controversy. Speaking in reference to this subject, it says: "It has been objected" (to the right of a State to interpose for the protection of her reserved rights) "that the judicial authority is to be regarded as the sole expositor of the Constitution. On this objection it might be observed, first, that there may be instances of usurped powers which the forms of the Constitution could never draw within the control of the Judicial Department; secondly, that, if the decision of the judiciary be raised above the sovereign parties to the Constitution, the decisions of the other departments, not carried by the forms of the Constitution before the Judiciary, must be equally authoritative and final with the decision of that department. But the proper answer to the objection is, that the resolution of the General Assembly relates to those great and extraordinary cases, in which all the forms of the Constitution may prove ineffectual against infractions dangerous to the essential rights of the parties to it. The resolution supposes that dangerous powers, not delegated, may not only be usurped and executed by the other departments, but that the Judicial Department may also exercise or sanction dangerous powers, beyond the grant of the Constitution, and, consequently, that the ultimate right of the parties to the Constitution to judge whether the compact has been danger-

ously violated, must extend to violations by one delegated authority, as well as by another,—by the judiciary, as well as by the executive or legislative."

Against these conclusive arguments, as they seem to me, it is objected that, if one of the parties has the right to judge of infractions of the Constitution, so has the other; and that, consequently, in cases of contested powers between a State and the General Government, each would have a right to maintain its opinion, as is the case when sovereign powers differ in the construction of treaties or compacts; and that, of course, it would come to be a mere question of force. The error is in the assumption that the General Government is a party to the constitutional compact. The States, as has been shown, formed the compact, acting as sovereign and independent communities. The General Government is but its creature; and though, in reality, a government, with all the rights and authority which belong to any other government, within the orbit of its powers, it is, nevertheless, a government emanating from a compact between sovereigns, and partaking, in its nature and object, of the character of a joint commission, appointed to superintend and administer the interests in which all are jointly concerned; but having, beyond its proper sphere, no more power than if it did not exist. To deny this would be to deny the most incontestable facts and the clearest conclusions; while to acknowledge its truth is, to destroy utterly the objection that the appeal would be to force, in the case supposed. For, if each party has a right to judge, then, under our system of government, the final cognizance of a question of contested power would be in the States, and not in the General Government. It would be the duty of the latter, as in all similar cases of a contest between one or more of the principals and a joint commission or agency, to refer the contest to the principals themselves. Such are the plain dictates of both reason and analogy. On no sound principle can the agents

have a right to final cognizance, as against the principals, much less to use force against them to maintain their construction of their powers. Such a right would be monstrous, and has never, heretofore, been claimed in similar cases.

That the doctrine is applicable to the case of a contested power between the States and the General Government, we have the authority, not only of reason and analogy, but of the distinguished statesman already referred to. Mr. Jefferson, at a late period of his life, after long experience and mature reflection, says, "With respect to our State and Federal Governments, I do not think their relations are correctly understood by foreigners. They suppose the former are subordinate to the latter. This is not the case. They are co-ordinate departments of one simple and integral whole. But you may ask, If the two departments should claim each the same subject of power, where is the umpire to decide between them? In cases of little urgency or importance, the prudence of both parties will keep them aloof from the questionable ground; but, if it can neither be avoided nor compromised, a convention of the States must be called to ascribe the doubtful power to that department which they may think best."

It is thus that our Constitution, by authorizing amendments, and by prescribing the authority and mode of making them, has, by a simple contrivance, with its characteristic wisdom, provided a power which, in the last resort, supersedes effectually the necessity, and even the pretext for force: a power to which none can fairly object; with which the interests of all are safe; which can definitively close all controversies in the only effectual mode, by freeing the compact of every defect and uncertainty, by an amendment of the instrument itself. It is impossible for human wisdom, in a system like ours, to devise another mode which shall be safe and effectual, and, at the same time, consistent with what are the relations and acknowledged powers of the two great

departments of our Government. It gives a beauty and security peculiar to our system, which, if duly appreciated, will transmit its blessings to the remotest generations; but, if not, our splendid anticipations of the future will prove but an empty dream. Stripped of all its covering, the naked question is, whether ours is a federal or a consolidated government; a constitutional or absolute one; a government resting ultimately on the solid basis of the sovereignty of the States or on the unrestrained will of a majority; a form of government, as in all other unlimited ones, in which injustice, and violence, and force must finally prevail. *Let it never be forgotten that, where the majority rules without restriction, the minority is the subject;* and that, if we should absurdly attribute to the former the exclusive right of construing the Constitution, there would be, in fact, between the sovereign and subject, under such a government, no Constitution, or, at least, nothing deserving the name, or serving the legitimate object of so sacred an instrument.

How the States are to exercise this high power of interposition, which constitutes so essential a portion of their reserved rights that it *cannot be delegated without an entire surrender of their sovereignty*, and converting our system from a *federal* into a *consolidated* Government, is a question that the States only are competent to determine. The arguments which prove that they possess the power, equally prove that they are, in the language of Jefferson, "*the rightful judges of the mode and measure of redress.*" But the spirit of forbearance, as well as the nature of the right itself, forbids a recourse to it, except in cases of dangerous infractions of the Constitution; and then only in the last resort, when all reasonable hope of relief from the ordinary action of the Government has failed; when, if the right to interpose did not exist, the alternative would be submission and oppression on one side, or resistance by force on the other. That our system should afford, in such extreme cases, an intermediate

point between these dire alternatives, by which the Government may be brought to a pause, and thereby an interval obtained to compromise differences, or, if impracticable, be compelled to submit the question to a constitutional adjustment, through an appeal to the States themselves, is an evidence of its high wisdom: an element not, as is supposed by some, of weakness, but of strength; not of anarchy or revolution, but of peace and safety. *Its general recognition would of itself, in a great measure, if not altogether, supersede the necessity of its exercise, by impressing on the movements of the Government that moderation and justice so essential to harmony and peace, in a country of such vast extent and diversity of interests as ours;* and would, if controversy should come, turn the resentment of the aggrieved from the system to those who had abused its powers (a point all-important), and cause them to seek redress, *not in revolution or overthrow, but in reformation.* It is, in fact, properly understood, *a substitute,—where the alternative would be force,—tending to prevent, and, if that fails, to correct peaceably the aberrations to which all systems are liable, and which, if permitted to accumulate without correction, must finally end in a general catastrophe.*

I have now said what I intended in reference to the abstract question of the relation of the States to the General Government, and would here conclude, did I not believe that a mere general statement on an abstract question, without including that which may have caused its agitation, would be considered by many imperfect and unsatisfactory. Feeling that such would be justly the case, I am compelled, reluctantly, to touch on the Tariff, so far, at least, as may be necessary to illustrate the opinions which I have already advanced. Anxious, however, to intrude as little as possible on the public attention, I will be as brief as possible; and with that view will, as far as may be consistent with my object, avoid all debatable topics.

Whatever diversity of opinion may exist in relation to the principle, or the effect on the productive industry of the country, of the present, or any other Tariff of protection, there are certain political consequences flowing from the present which none can doubt, and all must deplore. It would be in vain to attempt to conceal, that it has divided the country into two great geographical divisions, and arrayed them against each other, in opinion at least, if not interests also, on some of the most vital of political subjects,—on its finance, its commerce, and its industry,—subjects calculated, above all others, in time of peace, to produce excitement, and in relation to which the Tariff has placed the sections in question in deep and dangerous conflict. If there be any point on which the (I was going to say, southern section, but to avoid, as far as possible, the painful feelings such discussions are calculated to excite, I shall say) weaker of the two sections is unanimous, it is, that its prosperity depends, in a great measure, on free trade, light taxes, economical, and, as far as possible, equal disbursements of the public revenue, and unshackled industry ;—leaving them to pursue whatever may appear most advantageous to their interests. From the Potomac to the Mississippi, there are few, indeed, however divided on other points, who would not, if dependent on their volition, and if they regarded the interest of their particular section only, remove from commerce and industry every shackle, reduce the revenue to the lowest point that the wants of the Government fairly required, and restrict the appropriations to the most moderate scale consistent with the peace, the security, and the engagements of the public ; and who do not believe that the opposite system is calculated to throw on them an unequal burden, to repress their prosperity, and to encroach on their enjoyment.

On all these deeply-important measures, the opposite opinion prevails, if not with equal unanimity, with at least a greatly preponderating majority, in the other and stronger

section ; so much so, that no two distinct nations ever entertained more opposite views of policy than these two sections do, on all the important points to which I have referred. Nor is it less certain that this unhappy conflict, flowing directly from the Tariff, has extended itself to the halls of legislation, and has converted the deliberations of Congress into an annual struggle between the two sections ; the stronger to maintain and increase the superiority it has already acquired, and the other to throw off or diminish its burdens : a struggle in which all the noble and generous feelings of patriotism are gradually subsiding into sectional and selfish attachments.* Nor has the effect of this dangerous conflict ended here. It has not only divided the two sections on the important point already stated, but on the deeper and more dangerous questions, the constitutionality of a protective Tariff, and the general principles and theory of the Constitution itself : the stronger, in order to maintain their superiority, giving a construction to the instrument which the other believes would convert the General Government into a consolidated, irresponsible government, with the total destruction of liberty ; and the weaker, seeing no hope of relief with such assumption of powers, turning its eye to the reserved sovereignty of the States, as the only refuge from oppression. I shall not extend these remarks, as I might, by showing that, while the effect of the system of protection was rapidly alienating one section, it was not less rapidly, by its necessary operation, distracting and corrupting the other ; and, between the two, subjecting the administration to violent and sudden changes, totally inconsistent with

* The system, if continued, must end, not only in subjecting the industry and property of the weaker section to the control of the stronger, but in proscription and political disfranchisement. It must finally control elections and appointments to offices, as well as acts of legislation, to the great increase of the feelings of animosity, and of the fatal tendency to a complete alienation between the sections.

all stability and wisdom in the management of the affairs of the nation, of which we already see fearful symptoms. Nor do I deem it necessary to inquire whether this unhappy conflict grows out of true or mistaken views of interest on either or both sides. Regarded in either light, it ought to admonish us of the extreme danger to which our system is exposed, and the great moderation and wisdom necessary to preserve it. If it comes from mistaken views,—if the interests of the two sections, as affected by the Tariff, be really the same, and the system, instead of acting unequally, in reality diffuses equal blessings, and imposes equal burdens on every part,—it ought to teach us how liable those who are differently situated, and who view their interests under different aspects, are to come to different conclusions, even when their interests are strictly the same; and, consequently, with what extreme caution any system of policy ought to be adopted, and with what a spirit of moderation pursued, in a country of such great extent and diversity as ours. But if, on the contrary, the conflict springs really from contrariety of interests,—if the burden be on one side and the benefit on the other,—then are we taught a lesson not less important, how little regard we have for the interests of others while in pursuit of our own; or, at least, how apt we are to consider our own interest the interest of all others; and, of course, how great the danger, in a country of such acknowledged diversity of interests, of the oppression of the feebler by the stronger interest, and, in consequence of it, of the most fatal sectional conflicts. But whichever may be the cause, the real or supposed diversity of interest, it cannot be doubted that the political consequences of the prohibitory system, be its effects in other respects beneficial or otherwise, are really such as I have stated; nor can it be doubted that a conflict between the great sections, on questions so vitally important, indicates a condition of the country so distempered and dangerous, as to demand the most serious and prompt attention.

It is only when we come to consider of the remedy, that, under the aspect I am viewing the subject, there can be, among the informed and considerate, any diversity of opinion.

Those who have not duly reflected on its dangerous and inveterate character, suppose that the disease will cure itself; that events ought to be left to take their own course; and that experience, in a short time, will prove that the interest of the whole community is the same in reference to the Tariff, or, at least, whatever diversity there may now be, time will assimilate. Such has been their language from the beginning, but, unfortunately, the progress of events has been the reverse. The country is now more divided than in 1824, and then more than in 1816. The majority may have increased, but the opposite sides are, beyond dispute, more determined and excited than at any preceding period. Formerly, the system was resisted mainly as inexpedient; but now, as unconstitutional, unequal, unjust, and oppressive. Then, relief was sought exclusively from the General Government; but now, many, driven to despair, are raising their eyes to the reserved sovereignty of the States as the only refuge. If we turn from the past and present to the future, we shall find nothing to lessen, but much to aggravate the danger. The increasing embarrassment and distress of the staple States, the growing conviction, from experience, that they are caused by the prohibitory system principally, and that, under its continued operation, their present pursuits must become profitless, and with a conviction that their great and peculiar agricultural capital cannot be diverted from its ancient and hereditary channels without ruinous losses,—all concur to increase, instead of dispelling, the gloom that hangs over the future. In fact, to those who will duly reflect on the subject, the hope that the disease will cure itself must appear perfectly illusory. The question is, in reality, one between the exporting and non-exporting interests of the country. *Were there no exports, there would be no tariff.* It would

be perfectly useless. On the contrary, so long as there are States which raise the great agricultural staples with the view of obtaining their supplies, and which must depend on the general market of the world for their sales, the conflict must remain if the system should continue, and the disease become more and more inveterate. Their interest, and that of those who, by high duties, would confine the purchase of their supplies to the home market, must, from the nature of things, in reference to the Tariff, be in conflict. Till, then, we cease to raise the great staples, cotton, rice, and tobacco, for the general market, and till we can find some other profitable investment for the immense amount of capital and labor now employed in their production, the present unhappy and dangerous conflict cannot terminate, unless with the prohibitory system itself.

In the mean time, while idly waiting for its termination through its own action, the progress of events in another quarter is rapidly bringing the contest to an immediate and decisive issue. We are fast approaching a period very novel in the history of nations, and bearing directly and powerfully on the point under consideration—the final payment of a long-standing funded debt—a period that cannot be greatly retarded, or its natural consequences eluded, without proving disastrous to those who attempt either, if not to the country itself. When it arrives, the Government will find itself in possession of a surplus revenue of $10,000,000 or $12,000,000, if not previously disposed of,—which presents the important question, What previous disposition ought to be made? a question which must press urgently for decision at the very next session of Congress. It cannot be delayed longer without the most distracting and dangerous consequences.

The honest and obvious course is, to prevent the accumulation of the surplus in the Treasury by a timely and judicious reduction of the imposts; and thereby to leave the money in the pockets of those who made it, and from whom

it cannot be honestly nor constitutionally taken, unless required by the fair and legitimate wants of the Government. If, neglecting a disposition so obvious and just, the Government should attempt to keep up the present high duties, when the money is no longer wanted, or to dispose of this immense surplus by enlarging the old, or devising new schemes of appropriations; or, finding that to be impossible, it should adopt the most dangerous, unconstitutional, and absurd project ever devised by any government, of dividing the surplus among the States,—a project which, if carried into execution, would not fail to create an antagonist interest between the States and General Government on all questions of appropriations, which would certainly end in reducing the latter to a mere office of collection and distribution,—either of these modes would be considered, by the section suffering under the present high duties, as a fixed determination to perpetuate for ever what it considers the present unequal, unconstitutional, and oppressive burden; and from that moment it would cease to look to the General Government for relief. This deeply-interesting period, which must prove so disastrous should a wrong direction be given, but so fortunate and glorious, should a right one, is just at hand. The work must commence at the next session, as I have stated, or be left undone, or, at least, be badly done. The succeeding session would be too short, and too much agitated by the presidential contest, to afford the requisite leisure and calmness; and the one succeeding would find the country in the midst of the crisis, when it would be too late to prevent an accumulation of the surplus; which I hazard nothing in saying, judging from the nature of men and government, if once permitted to accumulate, would create an interest strong enough to perpetuate itself; supported, as it would be, by others so numerous and powerful; and thus would pass away a moment, never to be quietly recalled, so precious, if properly used, to lighten the public burden; to equalize the

action of the Government; to restore harmony and peace; and to present to the world the illustrious example, which could not fail to prove most favorable to the great cause of liberty every where, of a nation the freest, and, at the same time, the best and most cheaply governed; of the highest earthly blessing at the least possible sacrifice.

As the disease will not, then, heal itself, we are brought to the question, Can a remedy be applied? and if so, what ought it to be?

To answer in the negative would be to assert that our Union has utterly failed; and that the opinion, so common before the adoption of our Constitution, that a free government could not be practically extended over a large country, was correct; and that ours had been destroyed by giving it limits so great as to comprehend, not only dissimilar, but irreconcilable interests. I am not prepared to admit a conclusion that would cast so deep a shade on the future; and that would falsify all the glorious anticipations of our ancestors, while it would so greatly lessen their high reputation for wisdom. Nothing but the clearest demonstration founded on actual experience, will ever force me to a conclusion so abhorrent to all my feelings. As strongly as I am impressed with the great dissimilarity, and, as I must add, as truth compels me to do, contrariety of interests in our country, resulting from the causes already indicated, and which are so great that they cannot be subjected to the unchecked will of a majority of the whole without defeating the great end of government, and without which it is a curse —justice—yet I see in the Union, as ordained by the Constitution, the means, if wisely used, not only of reconciling all diversities, but also the means, and the only effectual one, of securing to us justice, peace, and security, at home and abroad, and with them that national power and renown, the love of which Providence has implanted, for wise purposes, so deeply in the human heart: in all of which great objects

every portion of our country, widely extended and diversified as it is, has a common and identical interest. If we have the wisdom to place a proper relative estimate on these more elevated and durable blessings, the present and every other conflict of like character may be readily terminated; but if, reversing the scale, each section should put a higher estimate on its immediate and peculiar gains, and, acting in that spirit, should push favorite measures of mere policy, without some regard to peace, harmony, or justice, our sectional conflicts would then, indeed, without some constitutional check, become interminable, except by the dissolution of the Union itself. That we have, in fact, so reversed the estimate, is too certain to be doubted, and the result is our present distempered and dangerous condition. The cure must commence in the correction of the error; and not to admit that we have erred would be the worst possible symptom. It would prove the disease to be incurable, through the regular and ordinary process of legislation; and would compel, finally, a resort to extraordinary, but I still trust, not only constitutional, but safe remedies.

No one would more sincerely rejoice than myself to see the remedy applied from the quarter where it could be most easily and regularly done. It is the only way by which those, who think that it is the only quarter from which it may constitutionally come, can possibly sustain their opinion. To omit the application by the General Government, would compel even them to admit the truth of the opposite opinion, or force them to abandon our political system in despair; while, on the other hand, all their enlightened and patriotic opponents would rejoice at such evidence of moderation and wisdom, on the part of the General Government, as would supersede a resort to what they believe to be the higher powers of our political system, as indicating a sounder state of public sentiment than has ever heretofore existed in any country; and thus affording the highest possible assurance

of the perpetuation of our glorious institutions to the latest generation. For, as a people advance in knowledge, in the same degree they may dispense with mere artificial restrictions in their government; and we may imagine (but dare not expect to see) a state of intelligence so universal and high, that all the guards of liberty may be dispensed with, except an enlightened public opinion, acting through the right of suffrage; but it presupposes a state where every class and every section of the community are capable of estimating the effects of every measure, not only as it may affect itself, but every other class and section; and of fully realizing the sublime truth that the highest and wisest policy consists in maintaining justice, and promoting peace and harmony; and that, compared to these, schemes of mere gain are but trash and dross. I fear experience has already proved that we are far removed from such a state; and that we must, consequently, rely on the old and clumsy, but approved mode of checking power, in order to prevent or correct abuses; but I do trust that, though far from perfect, we are, at least, so much so as to be capable of remedying the present disorder in the ordinary way; and thus to prove that, with us, public opinion is so enlightened, and our political machine so perfect, as rarely to require for its preservation the intervention of the power that created it. How is this to be effected?

The application may be painful, but the remedy, I conceive, is certain and simple. There is but one effectual cure —an honest reduction of the duties to a fair system of revenue, adapted to the just and constitutional wants of the Government. Nothing short of this will restore the country to peace, harmony, and mutual affection. There is already a deep and growing conviction in a large section of the country, that the impost, even as a revenue system, is extremely unequal, and that it is mainly paid by those who furnish the means of paying the foreign exchanges of the country on

which it is laid ; and that the case would not be varied, taking into the estimate the entire action of the system, whether the producer or consumer pays in the first instance.

I do not propose to enter formally into the discussion of a point so complex and contested ; but, as it has necessarily a strong practical bearing on the subject under consideration in all its relations, I cannot pass it without a few general and brief remarks.

If the producer, in reality, pays, none will doubt but the burden would mainly fall on the section it is supposed to do. The theory that the consumer pays, in the first instance, renders the proposition more complex, and will require, in order to understand where the burden, in reality, ultimately falls, on that supposition, to consider the protective, or, as its friends call it, the American System, under its threefold aspect of taxation, of protection, and of distribution,—or as performing, at the same time, the several functions of giving a revenue to the Government, of affording protection to certain branches of domestic industry, and furnishing means to Congress of distributing large sums through its appropriations : all of which are so blended in their effects, that it is impossible to understand its true operation without taking the whole into the estimate.

Admitting, then, as supposed, that he who consumes the article pays the tax in the increased price, and that the burden falls wholly on the consumers, without affecting the producers as a class (which, by the by, is far from being true, except in the single case, if there be such a one, where the producers have a monopoly of an article so indispensable to life that the quantity consumed cannot be affected by any increase of price), and that, considered in the light of a tax merely, the impost duties fall equally on every section in proportion to its population, still, when combined with its other effects, the burden it imposes as a tax may be so transferred from one section to the other as to take it from one

and place it wholly on the other. Let us apply the remark first to its operation as a system of protection :

The tendency of the tax or duty on the imported article is not only to raise its price, but also, in the same proportion, that of the domestic article of the same kind, for which purpose, when intended for protection, it is, in fact, laid ; and, of course, in determining where the system ultimately places the burden in reality, this effect, also, must be taken into the estimate. If one of the sections exclusively produces such domestic articles and the other purchases them from it, then it is clear that, to the amount of such increased prices, the tax or duty on the consumption of foreign articles would be transferred from the section producing the domestic articles to the one that purchased and consumed them ;—unless the latter, in turn, be indemnified by the increased price of the objects of its industry, which none will venture to assert to be the case with the great staples of the country, which form the basis of our exports, the price of which is regulated by the foreign, and not the domestic market. To those who grow them, the increased price of the foreign and domestic articles both, in consequence of the duty on the former, is in reality, and in the strictest sense, a tax, while it is clear that the increased price of the latter acts as a bounty to the section producing them ; and that, as the amount of such increased prices on what it sells to the other section is greater or less than the duty it pays on the imported articles, the system will, in fact, operate as a bounty or tax : if greater, the difference would be a bounty ; if less, a tax.

Again, the operation may be equal in every other respect, and yet the pressure of the system, relatively, on the two sections, be rendered very unequal by the appropriations or distribution. If each section receives back what it paid into the treasury, the equality, if it previously existed, will con-

tinue ; but if one receives back less, and the other proportionably more than is paid, then the difference in relation to the sections will be to the former a loss, and to the latter a gain ; and the system, in this aspect, would operate to the amount of the difference, as a contribution from the one receiving less than it paid to the other that receives more. Such would be incontestably its general effects, taken in all its different aspects, even on the theory supposed to be most favorable to prove the equal action of the system, that the consumer pays, in the first instance, the whole amount of the tax.

To show how, on this supposition, the burden and advantages of the system would actually distribute themselves between the sections, would carry me too far into details ; but I feel assured, after full and careful examination, that they are such as to explain, what otherwise would seem inexplicable, that one section should consider its repeal a calamity, and the other a blessing ; and that such opposite views should be taken by them as to place them in a state of determined conflict in relation to the great fiscal and commercial interest of the country. Indeed, were there no satisfactory explanation, the opposite views that prevail in the two sections, as to the effects of the system, ought to satisfy all of its unequal action. There can be no safer, or more certain rule, than to suppose each portion of the country equally capable of understanding their respective interests, and that each is a much better judge of the effects of any system or measures on its peculiar interests than the other can possibly be.

But, whether the opinion of its unequal action be correct or erroneous, nothing can be more certain than that the impression is widely extending itself, that the system, under all its modifications, is essentially unequal ; and if to this be added a conviction still deeper and more universal, that every duty imposed *for the purpose of protection is not only unequal,*

but also unconstitutional, it would be a fatal error to suppose that any remedy, short of that which I have stated, can heal our political disorders.

In order to understand more fully the difficulty of adjusting this unhappy contest on any other ground, it may not be improper to present a general view of the constitutional objection, that it may be clearly seen how hopeless it is to expect that it can be yielded by those who have embraced it.

They believe that all the powers vested by the Constitution in Congress are, not only restricted by the limitations expressly imposed, but also by the nature and object of the powers themselves. Thus, though the power to impose duties on imports be granted in general terms, without any other express limitations but that they shall be equal, and no preference shall be given to the ports of one State over those of another, yet, as being a portion of the taxing power given with the view of raising revenue, it is, from its nature, restricted to that object, as much so as if the Convention had expressly so limited it ; and that to use it to effect any other purpose not specified in the Constitution, is an infraction of the instrument in its most dangerous form—an infraction by perversion, more easily made, and more difficult to resist, than any other. The same view is believed to be applicable to the power of regulating commerce, as well as all the other powers. To surrender this important principle, it is conceived, would be to surrender all power, and to render the Government unlimited and despotic ; and to yield it up, in relation to the particular power in question, would be, in fact, to surrender the control of the whole industry and capital of the country to the General Government, and would end in placing the weaker section in a colonial relation towards the stronger. For nothing are more dissimilar in their nature, or may be more unequally affected by the same laws, than different descriptions of labor and property ; and if taxes, by increasing the amount and changing the intent

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the near approach of the final payment of the public debt—the growing disaffection and resistance to the system in so large a section of the country—the deeper principles on which opposition to it is gradually turning—must be, indeed, infatuated not to see a great change is unavoidable ; and that the attempt to elude or much longer delay it must, finally, but increase the shock and disastrous consequences which may follow.

In forming the opinions I have expressed, I have not been actuated by an unkind feeling towards our manufacturing interest. I now am, and ever have been, decidedly friendly to them, though I cannot concur in all of the measures which have been adopted to advance them. I believe considerations higher than any question of mere pecuniary interest forbade their use. But subordinate to these higher views of policy, I regard the advancement of mechanical and chemical improvements in the arts with feelings little short of enthusiasm ; not only as the prolific source of national and individual wealth, but as the great means of enlarging the domain of man over the material world, and thereby of laying the solid foundation of a highly-improved condition of society, morally and politically. I fear not that we shall extend our power too far over the great agents of nature ; but, on the contrary, I consider such enlargement of our power as tending more certainly and powerfully to better the condition of our race, than any one of the many powerful causes now operating to that result. With these impressions, I not only rejoice at the general progress of the arts in the world, but in their advancement in our own country ; and as far as protection may be incidentally afforded, in the fair and honest exercise of our constitutional powers, I think now, as I have always thought, that sound policy, connected with the security, independence, and peace of the country, requires it should be done ; but that we cannot go a single step beyond without jeopardizing our peace, our harmony and our liberty

—considerations of infinitely more importance to us than any measure of mere policy can possibly be.

In thus placing my opinions before the public, I have not been actuated by the expectation of changing the public sentiment. Such a motive, on a question so long agitated, and so beset with feelings of prejudice and interest, would argue, on my part, an insufferable vanity, and a profound ignorance of the human heart. To avoid, as far as possible, the imputation of either, I have confined my statement, on the many and important points on which I have been compelled to touch, to a simple declaration of my opinion, without advancing any other reasons to sustain them than what appeared to me to be indispensable to the full understanding of my views; and if they should, on any point, be thought to be not clearly and explicitly developed, it will, I trust, be attributed to my solicitude to avoid the imputations to which I have alluded, and not from any desire to disguise my sentiments, nor the want of arguments and illustrations to maintain positions, which so abound in both, that it would require a volume to do them any thing like justice. I can only hope the truths which, I feel assured, are essentially connected with all that we ought to hold most dear, may not be weakened in the public estimation by the imperfect manner in which I have been, by the object in view, compelled to present them.

With every caution on my part, I dare not hope, in taking the step I have, to escape the imputation of improper motives; though I have, without reserve, freely expressed my opinions, not regarding whether they might or might not be popular. I have no reason to believe that they are such as will conciliate public favor, but the opposite, which I greatly regret, as I have ever placed a high estimate on the good opinion of my fellow-citizens. But, be that as it may, I shall, at least, be sustained by feelings of conscious rectitude. I have formed my opinions after the most careful and

deliberate examination, with all the aids which my reason and experience could furnish; I have expressed them honestly and fearlessly, regardless of their effects personally, which, however interesting to me individually, are of too little importance to be taken into the estimate, where the liberty and happiness of our country are so vitally involved.

JOHN C. CALHOUN.

FORT HILL, *July 26th*, 1831.

REPORT

Prepared for the Committee on Federal Relations of the Legislature of South Carolina, at its Session in November, 1831.

The committee, to whom was referred so much of the Governor's message as refers to the relation between the States and General Government, and the subjects immediately connected therewith,—have had the same under consideration, with that anxious solicitude to arrive at the truth, which their deep importance, and the existing relations growing out of them, so seriously demand. The result has been a deeper conviction, if possible, of the truth of the doctrines for which this State contends, and the necessity of maintaining them at every sacrifice, in order to preserve the Constitution,—the Union,—and the liberty of the country.

In presenting the result of their deliberations, your committee propose to touch on a few prominent points only, which the present state of this long protracted struggle on the part of the State to maintain its rights, seems to render necessary,—passing by in silence all of minor impor-

tance, including those which they deem already sufficiently established.

The relations existing between this State and the General Government, grew, as is well known to all, out of the Tariff. But, as deeply interesting as your committee consider the questions involved in a protective Tariff, to this and the other Southern States, particularly when connected with its unconstitutionality,—they deem it of vastly inferior importance to the great question to which it has given rise, and which is now at issue in the controversy; the right of a State to interpose, in the last resort, in order to arrest an unconstitutional act of the General Government, within its limits. This they conceive to be by far the most important question which can be presented under our system;—as on its determination depends the fact, whether ours be, in reality, a federated or consolidated government;—a government with a constitution imposing checks and restrictions on the governing power, or one with the form of a constitution, but, in reality, without any practical check or restriction whatever. Such is its magnitude; such the great question which has become so prominent in the present controversy, and which so long divided the two great political parties of our country.

Whether the Constitution be a compact between the people of the several States, forming separate and distinct political communities, or an act of the American people, forming one aggregate community, derives its importance wholly from the bearing which it has on the question of the right of a State to interpose. Without such bearing,—however curious the question might be, as involving a mere historical fact, it would have very little more interest than any other connected with our constitutional history,—being destitute of all practical consequence, and having no greater power to agitate the feelings and passions of the community. It is only when viewed in connection with the question of

interposition that it swells into importance ;—an importance which must continue to increase just in proportion as the intimate relation between the two is perceived and appreciated. That the relation between them is, in fact, of the most intimate character,—so intimate that, if it be conceded, that the Constitution is a compact between the States in the manner stated, it follows as a necessary consequence, that the States have the right to interpose,—your committee deem susceptible of the most demonstrative proofs ; and that, consequently, the only issue is, in reality, between those who maintain the doctrine above stated, and those who contend that the Constitution is the act of the American people, taken collectively. In making this assertion, your committee are aware that there is a very respectable class, which, while it admits the Constitution to be a compact between the States, denies the right of a State to interpose ; but, if they do not greatly misapprehend the views of those to whom they refer, they feel confident it will appear, on examination, that, while they deny the right of interposition, they are compelled, in order to distinguish their doctrines from those who deny the Constitution to be a compact between the States, to assume grounds which necessarily involve the right of interposition. Perceiving that, to deny to the States all right of resistance to an unconstitutional act, would, in fact, be to divest them of all rights in virtue of their being parties to the Constitution,—and that the denial of the right to interpose, would practically confound their doctrines with those who deny the instrument to be a compact between the States, they are compelled to contend for the right of secession, as distinct from that of rebellion, or resistance by mere force,—which all admit belong to the oppressed, be the form of government what it may. But to maintain the distinction, it is not only necessary to assume that the Constitution is a compact between the States, but that they have, in virtue of being parties to it, a

right to judge, in their political and sovereign capacity as States, whether the instrument has been violated or not; and to determine, if violated, that the act is null and void; —all of which are absolutely necessary to distinguish secession from the forcible resistance of mere individuals against an unjust and oppressive government: but it is no less clear that secession, thus distinguished, is not only an act of interposition on the part of the State, but the very highest possible act of the kind,—and that it assumes principles which cover the whole ground of the State-rights doctrines. Concede that the State is a party to the constitutional compact,—that, in virtue thereof, she has a right, as a State, to judge of its infractions, and to determine whether it be, or be not obligatory,—and all will be conceded for which this State has ever contended. The State would, accordingly, in all cases of infraction, necessarily become the rightful judge of the "mode and measure of redress;" and no mode would be interdicted to her, unless it could be shown that there was something in its nature incompatible with the right. This has been attempted, as to the one proposed by this State; but, in the opinion of your committee, with such complete failure of success, as to confirm, rather than weaken the position which they have taken. With this view, it has been objected that the exercise of the right of interposition, by arresting within the limits of the State an unconstitutional act of the General Government, would be absurd,—because it would involve the supposed contradiction, that a State might be both *in* and *out* of the Union at the same time. Your committee find some difficulty in treating an argument, at once so false in its assumptions and so scholastic in its character, with the gravity which becomes a public document, discussing subjects of such dignity and deep importance. In fact, they would have deemed it utterly unworthy, both of their notice and the occasion, were they not satisfied that, destitute of

weight as it is, it has been the leading cause of error, on the part of a large portion of those whose views they are at present considering. It is only under this impression that they feel justified in giving it a passing notice.

It is certainly not a little remarkable, that what has been so often asserted to be impossible,—for a State to be both *in* and *out* of the Union at the same time,—so far from being true, is the very reverse,—the only true and constitutional position of a State being precisely that which the argument supposes to be impossible. A State is at all times, so long as its proper position is maintained, both *in* and *out* of the Union;—*in*, for all constitutional purposes,—and *out*, for all others;—*in*, to the extent of the delegated powers, and *out*, to that of the reserved. Any other position would be either consolidation on the one side, or disunion on the other; and the argument, if it be good for any thing, would prove that our *federated system*, which is justly our pride and boast, is but a political paradox. Nor would it be much short of an equal paradox, if the States, in truth, possessed no right—as those who maintain the argument contend—to resist an attempt to force them from their true federative, constitutional position,—of being *in* and *out*, into that of being *entirely in*, or *entirely out*,—either of which (the disease—and the only admitted remedy, according to this view without withdrawing from the Union), would be equally destructive of the system. And yet, by a strange confusion of ideas, this very right of resisting an attempt to force a State from its constitutional position, and which is indispensable to the preservation of the system, is considered as incompatible with its existence!

With the same view, it is also objected, from the same quarter, that it is a principle in the laws regulating contracts, that a party has no right to consider a contract as violated and null in part, and not violated and null in the whole,—a principle which your committee consider, at least,

of doubtful authority; but which they do not deem it necessary at this time to investigate. This State, in asserting the right of interposition, has never gone on the assumption, that the Constitution was null and void, either in whole or in part, in consequence of the infractions of which she so justly complains. She is not ignorant that, when an instrument is violated, it belongs to the aggrieved party to determine, whether it shall be obligatory or not; but she places too high an estimate on the great value of our Constitutional compact, to raise a question as to its obligation, notwithstanding it has been so long and grossly violated to her very great injury. She has been contending for a very different, and, it may be added, far less revolutionary right; the right, not of setting aside the provisions of the Constitution, either in whole, or in part, but the right to maintain or preserve them in their full force, by arresting all attempts on the part of the General Government to violate them. Her object is not to *destroy*, but to *preserve*; and she acts on the broad and radical distinction, between the right to prevent, and arrest infractions, and the right to set aside the instrument in consequence of such infractions. If, indeed, as contended, the system contains no provision, by which the parties might effectually prevent or arrest a violation of the constitutional compact, but by the destruction of the instrument itself, this, according to her opinion, —however admirable the government might be in other respects, would, of itself be a defect, so radical, and fatal, as to doom it, inevitably, to a short and inglorious career. But your committee feel assured, the builders of our noble political fabric have constructed it on far more durable and imperishable principles. Nor do they feel less confidence, that the more thoroughly the subject is investigated, and the more perfectly it is understood, the more clearly it will be seen, that the true conservative principle—that which will enable the fabric to resist the action of time, force, and fraud—

will be found in the doctrines on which this State has taken so high and so honorable a stand.

It is likewise objected that, if a State interfere to arrest an unconstitutional act of the General Government, she must necessarily interfere with some of its regular functions; and that it is, therefore, a power inhibited to the State. Your committee readily admit, that a State, in exercising a power to preserve the Constitution,—which is the object of interposition,—has no right to adopt measures incompatible with it,—and that all such measures are necessarily inhibited: but to assert that such must be the necessary consequence of the exercise of the right, is plainly to beg the question. It is the very point at issue;—to be proved, and not to be assumed. The real question is,—Has a State, acting in its sovereign capacity, a right to judge of the infractions of the compact?—and what, according to the true theory of our Government, would be the effect, if, acting in such capacity, as a party to the compact, a State should declare an act of Congress to be a violation of the Constitution, and, therefore, null and void?—Whether such an act on the part of a State is not, in its nature, paramount on its citizens,—binding them through their allegiance to the State, as fully and absolutely, as an Act of Secession, founded on a similar declaration, and asserting that, in consequence of such infraction, the Constitution itself is null and void,—which those who urge the objection, maintain the State has a right to make? If the latter be obligatory on its citizens, it is clear the former would be also. They both stand on the same ground,—the sovereignty of the State,—and the consequent allegiance of its citizens. But it is obvious that, if a State have this right,—which those, at least, who admit of secession, cannot deny,—the effect of such declaration,—so binding its citizens, judges, juries, and all others—must necessarily be to arrest the unconstitutional act of the General Government within its limits,—which, thanks to the Constitution,—can only be

executed, like all other acts of that Government, through courts and juries; thus affording a new and powerful illustration of the admirable privilege of jury-trial, and the essential importance to the preservation of liberty, that the people should be represented, as well in the Judicial, as in the Legislative or Executive Departments of the Government. But, if the exercise of such power on the part of a State be rightful,—which those who hold the Constitution to be a compact between the people of the several States cannot deny,—such a declaration on the part of a State, would not only have an obligatory force on its own citizens, but on the General Government itself, through all of its departments. It would be, in truth, an act of a distinct department of our complex political system,—exercised within the limits of its peculiar sphere (as the reserved powers are clearly within the proper and exclusive sphere of the States), and would be as binding on the other department, as an act of one of the departments of the General Government itself, within its assigned and peculiar sphere would be on the other co-departments. In all complex and free governments, where the powers of government are divided, it is an essential attribute of such division, that each, within its own assigned sphere, should be paramount to the other; a principle which necessarily extends to the great and fundamental division of power between the States and General Government, as well as to the divisions of power within their respective organizations. The reason is the same in both,—while the necessity is even greater, if possible, in the former than the latter.

Such being the fact, it is manifest, that the General Government would be as much bound to respect the declaration of a State, acting within its peculiar sphere, on powers belonging exclusively to itself, and the maintenance of which would be indispensable to her proper attitude in the system, as either of its departments would be to respect the other,—the Legislative or Executive to respect the Judiciary,

or *vice versa* ;—and that it would be just as reasonable to apply force to compel the Supreme Court to reverse its decision on a question within its jurisdiction, as to compel a State to abandon its declaration on a question appertaining to her reserved rights. They both stand on the same ground, —and the remedy is the same in both cases :—the co-departments must yield the power in contest, or obtain it by a positive grant from three fourths of the States,—the legitimate and peculiar remedy, provided by our admirable system, by which every jar in its highly complicated machinery, may be quietly, peacefully, and permanently removed.

But it is objected, from the same quarter,—by those who assert, with us, that the Constitution is a compact to which the States are parties,—and who affirm the right of secession, but deny the right of interposition *in any other form*,—that the right for which the State contends, though it might be inferred on general principles, from the character of the Government,—has been actually surrendered by the Constitution itself, and cannot, therefore, be exercised constitutionally by the States. They assert that the Supreme Court is the tribunal expressly ordained by the Constitution itself, to decide all controversies between the States and the General Government,—which necessarily divests the State of the right in question.

It is not the intention of your committee to enter into a minute examination of the assumption on which this objection rests,—that the Supreme Court is vested with the power to determine all disputes between the General and State Governments. They do not deem it necessary in replying to those, who concur with the State,—that the Constitution is a compact between the States ratifying it,—as they are prepared to prove that the assumption, if true, would be as fatal to those who maintain the right of secession, as to those who contend for the right of arresting the operation of an unconstitutional act. But they deem it

their duty to say, that never was there an assumption more perfectly gratuitous than that the Supreme Court is vested, by the Constitution, with power to decide all controversies between the States and the General Government. So far from the Constitution containing any such express grant,—as has been often asserted,—it contains none from which it can be inferred by any argument entitled to be called even plausible. The right of the court to exercise so high a power was, at first, placed on the provision of the Constitution, extending its jurisdiction to "all cases in law and equity, arising under the Constitution,—the laws of the United States, and treaties made, or which shall be made under their authority." Never was a conclusion of such deep import, drawn from feebler premises. We have the highest authority for asserting that the expression, "*cases in law and equity*," is technical, and limited to questions of a *judicial* character, between parties amenable to the process of the court: and that it does not extend to questions of a *political* character, we have the decision of the court itself in the recent Cherokee case.

But finding that the high power in question could not be inferred from this provision of the Constitution, it has been attempted, with no greater success, to draw it from another, which extends the jurisdiction of the court to,—"Controversies to which the United States are parties."—It is true that the term, "*Controversies*," is broader and less technical than, "*Cases in Law and Equity*," and might, when considered in the abstract, be extended to all controversies whatever, in which the United States were *concerned*. But it is an axiom that a Government cannot be sued but with its own consent; and, of course, the term, "*controversies*," as used in this case, must, of necessity, be limited to the cases where the United States are plaintiff,—or where they have voluntarily permitted themselves to be sued; and, of course, excludes the idea that a State can bring a controversy

between itself and the General Government, before the court. The term, taken in its broad sense, would lead to the most absurd consequences; and among others, that a foreign nation might bring its controversy before the Supreme Court; —and, instead of enforcing the observance of treaties by arms, enforce them by the decree of the court. Its powers are strictly *judicial*,—and under our peculiar system, so far from being appointed by the Constitution as the special guardian of that instrument, even the right to decide an act of Congress unconstitutional, is a mere matter of inference, growing out of the nature of the system itself,—and is limited strictly to the necessity of the case. When a "case in law or equity" is brought before the court regularly, it must decide according to law;—and as the Constitution is of higher authority than an act of Congress, it follows, as a necessary consequence, that the decision must conform to the Constitution;—but so strictly is it a mere resulting power, and the creature of necessity, that the court can take no cognizance of an unconstitutional act, unless it be apparent on its face;—and thus, as an incidental check on the Legislative and Executive Departments of the Government, can exert no salutary influence, where a constitutional power has been perverted to an unconstitutional purpose,—the most insidious and dangerous of all infractions. But be these views sound or not, it belongs not to those to object, who claim for a State the right to secede from the Union.

Considered in reference to those who urge them, your committee are at a loss to explain, how doctrines so manifestly contradictory as the right of secession, on the part of a State, and the right of the Supreme Court to decide in all controversies between the States and General Government, can possibly be entertained by the same individuals. The two rights obviously rest on opposite assumptions; the former, as has been shown, necessarily presupposing that the State, as a party to the constitutional compact, has the right to judge

of its infractions, and to determine whether it be any longer obligatory ;—the latter expressly negativing these assumptions, by affirming that the very power in question has been surrendered, in the Constitution itself, to the court,—and, therefore, cannot be exercised by the parties to it ;—an assertion which, if correct, would manifestly be as fatal to the right of secession, as to that of arresting an unconstitutional act of the General Government within the limits of the State ; —thus leaving, if well founded, no other mode of resistance than that of force.

These are believed to be the only objections of any weight, which have been urged against the right of interposition, by those who concur in the opinion that the Constitution is a compact,—but who, at the same time, deny to the State the right to interpose ;—and, unless your committee be under a great mistake, they are so utterly destitute of all solidity, as to authorize them to conclude, that there is no intermediate position that can be maintained, between that assumed by the State, and that sustained by those who deny that the States, as distinct political communities, had any agency in its formation, or any right, in any form, to judge of its infractions ;—and, consequently, any right, either to interpose, or to secede or resist in any other mode. If this conclusion be correct,—of which your committee has the firmest conviction, —it will be impossible that those, who, from a hasty view of the subject, or from any other cause, have attempted to take an intermediate position, can maintain a ground so utterly untenable ; and they must be ultimately compelled to occupy, either that assumed by the State-Rights, or that by the Consolidation Party ;—a term they use without any desire to attach odium to its members, but simply to avoid circumlocution ;—and believing, at the same time, that they do no injustice ;—for it is impossible for them to form a conception of a consolidated, as opposed to a federative system, that is not embraced by the doctrines which this party supports.

The question of interposition, turning, then, simply on the great historical fact,—whether our Constitution be, in truth, a compact between the people of the States, as distinct political communities, or the act of the American people, taken collectively,—your committee propose, in the next place, to offer a few remarks on the question, viewed in this aspect: —and surely a more momentous one, regarded in all its connections, was never offered for the consideration of a free people. It is impossible to bestow on it too much reflection, or to regard it with too deep, or too serious a consideration.

Were it possible to establish the fact, that the Constitution was the act of the American people, considered in the aggregate, consequences would inevitably follow which would radically affect the entire character of the Government ;— and which could not fail to lead to the most disastrous results. Admit its truth, and the States at once sink into mere geographical divisions,—bearing the same relation to the whole, as counties do to the States,—possessed of no right, and exercising no power, but such as may be derived from the concession of the majority of the people of the whole Union, —from whom all power would be derived, and to whom, only, allegiance would be due. Viewed in this light, it would be a mere concession from the majority, that the assent of the States was necessary to give validity to the Constitution ;— that three fourths of them are necessary to alter or amend the instrument ;—that they have an equal representation in the Senate ;—or that they possess reserved rights at all ;— concessions which could, at any time, be resumed, whenever the majority should deem fit, by a call of a Convention of the whole,—which, according to the theory in question, would have the right to strip the States of all their powers,—and even to substitute another Constitution in the place of the present,—moulded as the majority might think proper. But the exercise of this high power on the part of the majority, would be, under this view of the subject, an act of superero-

gation. Let it be conceded that the States, as separate and distinct communities, had no agency in the formation of the Constitution,—that the instrument, instead of being a compact between *them*, is the act of the *American people in the aggregate*,—and that the States have no right to interpose, in order to resist encroachments on their reserved powers, and the unlimited and unquestioned right of the majority to construe it at its will,—which would be a necessary consequence ; —and it would inevitably, in time, mould the Constitution to its pleasure, without the trouble or hazard of substituting, formally, a new one in place of the old. When we look at the progress which this system of construction has already made in substituting the old, and rearing a new edifice in its place, contested as the right has been,—it is manifest, that, it would be impossible to assign any limits to its power, if it be once conceded that the majority have the right of placing what construction they please on the Constitution ;—or, what is the same thing, that there is no right on the part of the States to resist their construction.

If such dangerous and heretical doctrines as these should gain the ascendency, it would be impossible for any situation to be more exposed than ours ;—but, fortunately for us, they rest on an assumption utterly destitute of truth. If there be any historical fact certain, it is, that the Constitution is the act of the States, as distinct and separate bodies politic, and not that of the American People as a single community. Your committee do not propose to enter into an examination of the question, historically ; for they do not deem it necessary after the full and conclusive evidence which has been so frequently adduced in support of the assertion. The truth is, that the very idea of an *American People*, as constituting a single community, is a mere chimera. Such a community never, for a single moment, existed,—neither before nor since the Declaration of Independence. While under the authority of Great Britain, these States existed as separate and

distinct colonies,—having no common union, except through the mother country; and on the termination of their colonial state, the very act declaring that condition at an end, declared them at the same time to be *free and independent States.* Were it possible to raise a doubt as to the meaning intended to be conveyed by the use of these terms, it would be removed by the fact, that, contemporaneous with this declaration, there was pending before the body which declared their independence, the project of a government for them, based on federal principles, and which resulted in establishing, what is called, the Old Confederation,—under which, it is conceded, each State was left in possession of its freedom and independence:—thus confirming, beyond the possibility of doubt, the meaning for which your committee contend.

If it were possible to add strength to a position of itself so clear, it would be furnished by the feebleness of the arguments by which the opposite views are attempted to be sustained. Those who maintain them assert that the Union preceded even the Declaration of Independence,—and, of course, the formation of the Government,—and that the Government is derived from the Union, and not the Union from the Government,—forgetting that the real question relates to the *character* of the Union, and not to the *time* of its commencement:—whether it was formed of pre-existing political communities, which still retained under it their separate and independent existence, or of the entire people as one body politic;—a Union, in other words, of *communities*, or of *individuals.* That it was the former, it is just as impossible to doubt, as it is the existence of the War of the Revolution itself. The members of the old Congress, which preceded the Declaration of Independence, met as representatives of colonies, forming separate communities,—voted by colonies,—and finally declared, when that state was terminated, that "these united *Colonies* are, and of right ought to be, free and independent *States*;—thus placing it beyond all doubt,

that the informal union, which preceded the Declaration of Independence, and which grew out of the common danger, was, in fact, the Union of *Colonies*, as *political communities*, and not of *individuals*, as forming a *single community*.

But it is contended, that the expression in the preamble of the Constitution,—"We, the People of the United States," is properly descriptive of the people in the aggregate, and not of the people of the States separately;—and that it proves the Constitution to have been the act of the former, and not of the latter.

It is no feeble proof of the strength of the side this State supports, and the weakness of the opposite, that the advocates of the latter are compelled to resort to mere verbal criticism,—and that, too, of the most equivocal character,—in the discussion of a question of deepest import, and involving the fundamental principles of our political system. It is perfectly gratuitous to assume, that the expression,—"We the People of the United States," applies more properly to the people, in the sense for which the Consolidation Party contends, than in that for which the State Rights Party contends.—If there be a difference, it is more strictly applicable to the people of the several States, than to the whole, as one people. It may, in fact, be fairly considered as a concise mode of expressing the same idea that a formal enumeration of the States, by name, would have conveyed, and used to avoid prolixity. That the expression was not intended to indicate the people of the United States, taken collectively, we have conclusive proof in the seventh and last article of the Constitution, which provides that "the ratification of nine States shall be sufficient to establish this Constitution between the States so ratifying the same;"—clearly indicating that "People," as used in the Preamble, meant the people of the several States, considered as separate communities.

Such, and so feeble are the arguments by which it is at-

tempted to subvert the very foundations of our system ;—that the Constitution is a compact between the several States;—that, as parties to it, the States have a right to interpose, in the last resort, in order to preserve the Constitution, and to arrest encroachments on their reserved rights ;—a doctrine, without which, our Government would be without check or balance, subject to the control of an interested and unrestricted majority. That arguments so slight and unconclusive,—leading to consequences so fatal to our liberty,—should ever have gained the assent of a large portion of the community, is but additional proof of the ascendency, which interest holds over the human judgment,—and of which history abounds with so many, and such melancholy examples. With these before us, we ought not to be surprised, that those who are profiting by our erroneous construction, should be deluded into a belief of its truth ; but we, who are its victims, ought to see in it additional reasons for the most zealous and strenuous resistance.

It is, indeed, high time for the people of the South to be roused to a sense of impending calamities,—on an early and full knowledge of which their safety depends. It is time that they should see and feel that in regard to climate, property and production, their situation in the Union is peculiar, and that they are in a permanent and hopeless minority on the great and vital connected questions,—with a powerful, adverse and monopolizing interest opposed,—supported by a strong, united and preponderating majority. Thus situated, there is, to us, no hope in the administration of the powers of the General Government,—over every department of which,—Legislative, Executive, and Judicial,—the will of the majority prevails. Our only safety is in the Constitution itself,—on maintaining which inviolate, is involved the liberty and happiness of ourselves and our posterity. Fortunately for us, our relative power and security are very different, as it relates to the Constitution, and to the administration of

the powers granted under it,—a difference which we ought never, for a moment, to forget. It is one that is fundamental in our system, and, to us, all-important. While in the latter,—the execution of the powers granted,—the will of the majority predominates on every subject, with a few special exceptions—in the former,—determining the grants of power,—the consent of three fourths of all the States is required. This great and primary distinction between the *granting* and the *executing*,—the *constitution-making*, and the *law-making* power, is the rock of our political salvation. It is the refuge—and the only refuge—of the minority States, against the encroachments of an interested majority, wielding the administration of the powers of the Government through all its departments, at its will, and according to the dictates of avarice or ambition. We make no complaint that the majority should control the administration. It is correct that the granted powers,—in the exercise of which all are supposed to have a common interest,—should be under the control of the majority;—but this ought not, in the smallest degree, to weaken our determination to maintain, with the utmost vigor, and at every hazard, the higher and more essential right that belongs to us, as a distinct portion of the *constitution-making power*,—to arrest infractions, and to see that no power shall be exercised by the General Government, which has not, in fact, been granted by three fourths of all the States. And it is because we feel the deepest conviction that this fundamental and, to us, vital right can only be enforced and made effectual by that of interposition, that we are so strongly impressed with the solemn and sacred obligation of maintaining it at every sacrifice. There is no mystery in this subject. The right of interposition which this State claims, is not only deducible, by the clearest demonstration, from the principles and character of our political institutions, but is, also, strictly consonant to those of reason and analogy. The General Government, properly

considered, is but a great political association, in which the States, as parties to the contract that formed it, are *partners*, and the Government the *direction*.* Among the leading and essential provisions of the contract are,—that no power should be granted to the *association*, or exercised by the *direction*, except such as have been assented to by three fourths of all the *partners*, and that the *compact*, forming the association, shall not be changed or altered but by a proportional number of the partners; but that the powers granted, with a few specified exceptions, should be exercised by a majority of the direction, appointed by a majority of the partners; thus subjecting the two to a very different control; in the former, the will of the majority prevails,—while in the latter, the consent of three fourths of the partners is required.

Thus organized, it is impossible not to see, that the interest which controls in the direction, must come into conflict with that which prevails with the partners or stockholders; and that, unless there be, on the part of the latter, a right to compel the former to submit all questions touching the compact of association, to the stockholders themselves, according to the provision of the contract, the interests of the direction would absorb those of the stockholders,—the *By-Laws* would prevail over the *Charter*;—and we accordingly find, in all private associations, such a right universally recognized, as essential to protect the rights and interests of the stockholders, against those of the direction. But as essential as this is in all such associations, it is far more so in our great Political Joint-Stock Association,—comprehending, as it does, powers that may touch the labor and capital of the whole community; and when, of course, the motives to encroachment are infinitely stronger than they can be in any case of private association.

* The verbal critic may read *director*, and thus save the labor of a philological disquisition.—*Editor.*

But, on the question,—whether the States have a right to interpose, depends the fact, whether they are, or are not possessed of this power, so clearly indispensable to protect the higher and more sacred rights that belong to them as a portion of the constitution-making power, against the mere law-making or administrative power ;—or, in other words,—whether the Constitution or the laws shall be paramount ; as it must be perfectly clear that, unless the States, in their high and sovereign character, as parties to the constitutional compact, can interpose to arrest, within their respective limits, the unconstitutional acts of the Government, and thereby compel it to abandon the exercise of an unconstitutional power, or to submit the question to the decision of the States themselves, to be determined according to the provisions of the Constitution,—the will of the majority, acting through the Government, must become, in practice, stronger than the will of three fourths of the States, acting through the Constitution. Yet it is this very power, so absolutely necessary to maintain the ascendency of the Constitution over the laws, which, under the name of nullification, is denounced as anarchy, treason, and rebellion ; and those who advocate it threatened with the vengeance of the laws ; as if it were possible to commit treason under a constitutional system, by maintaining the practical supremacy of the Constitution over the laws,—of the constitution-making power over the law-making power, and of the act of a State touching a question relating to its reserved rights, and acting in her high character, as a party to the constitutional compact,—over the acts of the Government appointed to administer the delegated rights, and whose acts, beyond the granted powers, are absolutely null and void ! But conscious of the truth and justice of our cause, and feeling thoroughly convinced, that nothing short of the practical assertion of the supremacy of the Constitution over the laws,—of the *stockholding*, over the *direction* interest,—can possibly avert from us and

our posterity (standing, as the South does, in a permanent minority), the most overwhelming calamity—or preserve the liberty of the country,—neither denunciations nor threats can drive us from maintaining the ground, which the State has assumed, and of the triumph of which, finally, your committee feel the most perfect assurance.

Having devoted so much time to the all-important question of the right of interposition on the part of a State to arrest an unconstitutional act of the General Government, within its limits, your committee feel compelled to pass over, with a few brief remarks only, that of the character and operation of the present Tariff. Nor, had they leisure, would they deem, at this time,—after so many and such able discussions,—a minute or full examination necessary.

Whatever may be the difference in opinion, as to the degree of oppression, there are few, indeed, who do not believe the Tariff to be oppressive, unjust, and unconstitutional. Without deeming it a matter of importance to ascertain the precise extent of the burden it imposes on us, your committee consider it essential that the general character of its operation, in respect to this and other States similarly situated, should be clearly understood; and to this point their remarks will be principally confined.

They, who are most disposed to deny its unjust operation, base their opinion on the principle or assumption, that the duty is a tax on *consumption*,—that every part of the community pays in proportion to the amount of its consumption,—and that, as consumption is, probably, nearly in proportion to population and wealth, all the sections of the country pay in nearly equal proportions. The foundation of the argument is, that the consumer pays the tax, and that all consumers bear the burden in proportion to the amount consumed. The rule is laid down without exception or limitation, and, as it is believed, contains the creed of those who are inclined to question the unequal action of the protective

system. Were there no other, there is one conclusive argument against the position, that all consumers bear a burden equal to their consumption. It confounds all distinctions between the *tax-payers* and the *tax-consumers ;*—those who pay for the liberty of consuming, and those who consume the proceeds of the tax ;—two classes that are clearly affected in a directly opposite manner by the tax ; and who bear a relation to it as antagonistic as that of payer and receiver. The effect of the tax is to diminish the consumption of the one, while it increases that of the other ; the higher the tax, the less is left to the former to consume, while the more is given to the latter. It seems to be overlooked by those who maintain the burden to be equal, that taxation and appropriation are necessarily connected ; that the fiscal system consists, not only in taking *from*, but in giving *to ;*—and, that these two operations are equal ; that as much as is taken from the tax-payers, just so much goes, through appropriations, to the tax-consumers ;—and, so far from the two classes of consumers bearing an equal portion of the burden, the benefits of the system to the tax-consumers, is just equal to the pressure on the tax-payers. To illustrate the position : —Let it be supposed that a planter ships one hundred bales of cotton to Liverpool,—that he sells or exchanges them for one hundred pieces of goods ;—and, to simplify the case,—let it be supposed that the duty is paid *in kind*, which we will assume to be forty per cent., though the average greatly exceeds this amount. The goods arrive at Charleston, and forty pieces are deposited in the Custom-House, for the liberty of introducing sixty. The consumption of the planter is thus clearly reduced from one hundred pieces, which he would have a right to consume, were there no duty, to sixty pieces.

But the forty, taken from him by the Tariff, are not lost. They have become the property of the Government ; or, what with us is the same thing, of the majority, which passes them away through its appropriations, and they are

consumed by those who receive them. Repeal the duty, and the planter would have forty pieces more to consume, and those who received them through the appropriations, forty less. Double the duty,—make it eighty, instead of forty per cent., and the consumption of the planter would be reduced from sixty to twenty pieces, while that of those who receive, would be raised from forty to eighty pieces ;—thus showing, beyond the possibility of doubt, that, so far from bearing equal burdens as *consumers*, the consumption, on the one side, is increased in exact proportion as the other is diminished. What is true in a single instance, is true in every other ;—and we may be perfectly assured that the $24,000,000 collected annually from the imports, are, in reality, taken from one class and go to another ; and that, while it diminishes the consumption of the former by the whole amount, it increases that of the latter by the same. To confound the two,—to suppose they bear equal burdens, is clearly and manifestly to overlook a most important distinction, and to confound things of the most opposite character, because they happen all to be classed under the name of consumers.

But there is another circumstance, not much less important, which is also overlooked in estimating the relative burdens of the system. In affirming that the burden is in proportion to the consumption, it is meant,—the consumption of imported articles paying duties ;—omitting, entirely, the effects of the system in increasing the price of the domestic articles of the same description ;—as well as of all other, produced in the manufacturing section, and which must necessarily be raised in price, by the great subtraction of labor and capital from their production to that of manufactures. It is clear, that the consumers of these domestic articles must be taken into the estimate, as well as the consumers of the foreign articles, in order to determine where the burden of the system falls ; and it is no less clear that, to

the producing section, the increased prices act as a bounty instead of a tax, while to the other, the reverse is the fact. Thus far admits of no doubt, and proves, beyond all controversy, that the position, that all pay in proportion to their consumption, must, at least, be taken with very important qualifications.

But your committee are of opinion, that objections still more decisive may be taken to the position. They cannot doubt, after the most mature investigation, that the impost is a tax on the foreign exchanges of the country, and must, from its nature, fall on the section or interest which furnishes the means of payment, without reference to consumption.

It is an unquestionable fact, that the imports are, at least, equal to the exports: in fact, they exceed them by several millions of dollars annually; which, however, is accounted for by adding the profits of our navigation and commerce to the value of the articles of export, estimated at the ports of shipment. Assuming them to be equal, it follows, as a necessary consequence, that our foreign exchanges are, in effect, barter transactions;—that though we may buy and sell for *cash*, in the intermediate stages, yet the final result is an exchange, *in kind*, of all we export, for all we import. The Custom-House books settle this point beyond controversy; and fully authorize your committee to consider the foreign trade of the country, in the simple form of barter, without the intervention of cash or specie;—which only facilitates the intermediate stages, without affecting the final result, or, consequently, the principle, in determining how a tax or duty on the exchange acts. Supposing, then, specie to be banished, and the foreign trade carried on by direct barter throughout, and that the duties were paid at the Custom-House *in kind* instead of *cash*,—and it would be impossible to doubt on whom the tax or duty would fall. It would, beyond all controversy, fall on the section or interest which would furnish the exports. Assuming, as they have, the duty to be

forty per cent., nothing can be more certain than that, if a planter should ship an amount of tobacco, rice or cotton, which would exchange for one hundred pieces of manufactured goods in Liverpool, or any other foreign port,—after leaving forty pieces at the Custom-House to pay the duty, he would have but sixty left ;—without any reference whatever to the fact, whether he consumed them or not: nor is it less certain that, if instead of exporting the produce himself, he exchanges it with a merchant at home for goods, he must receive less than sixty pieces, as the latter must deduct his profit,—the cost of buying, insurance, and other charges, whatever they might be. And it is equally certain, that what would be true of a part of the exports of the country, and as a barter transaction, would be true of all. Considered in this simple form, as a mere barter, without the intervention of specie,—and it is as clear a proposition as any possibly can be, that the rate of duty or tax on the imports, is neither more nor less than the ratio of division, between the producer of the articles exported in exchange for foreign products, and the Government. If it be forty per cent., then forty of the whole will be the Government's, and sixty the producer's. If raised to sixty per cent., then the Government's share will be sixty, and the producer's forty ;—and so for any higher or lower rate, without the least reference to the consumption of the producer. These conclusions are perfectly simple and incontrovertible ;—so much so, that there never could have been the least doubt as to the operation, had it not been for the complexity, which the introduction of specie, in the intermediate stages, to facilitate the process of exchange, has given to the calculation ; and it only remains to be shown that this circumstance cannot possibly vary the result.

It is true, that specie is duty free ;—it is, however, equally true, that it is not an article of consumption, but a part of the machinery of commerce,—imported to be exported,—as the equilibrium between the two demonstratively proves,

—except of course, that inconsiderable portion, which is necessary to be added annually to the metallic currency of the country, or that may be converted into jewelry, or other articles of consumption. It is also equally clear, that, considered as an article of export for the purpose of importing goods (and it is only with this view, finally, that it is exported), it must, in fact, be worth less by the amount of the duties on the articles to be imported. For example,—if a sum be exported sufficient to buy one hundred pieces of goods in Liverpool, or any other foreign port, and the duty at the Custom-House be forty pieces of the hundred imported, the specie would only exchange for sixty pieces at home; and hence it follows that it would be impossible to elude the duty which, as has been shown, would inevitably fall on the exporting or staple interests, either on the supposition that the foreign trade was carried on wholly by barter or by importing specie in the first instance instead of goods. Had it been possible for the great producing interest of the country to elude the tax by such a device, it is clear it would have been discovered long since, and that trade would have taken universally that shape; which is known not to be the fact,—the amount of specie imported annually, bearing but a small proportion to the whole amount of the imports. The result is clear. The effect of the duty on imports is, to lessen the value of specie at home proportionally. It will bring less of what we want for our supplies, in consequence, because we must receive less for it, in our foreign exchanges, in consequence of the duties. If a particular portion of the specie of the country had the exclusive privilege of being exchanged for the goods of foreign countries, duty free, it is clear that it would rise in value in proportion to the amount of the duty;—leaving no doubt that the effect of the duty is such as has been stated. But this opens a most important question,—How does this depreciation affect, relatively, the great interests of the country? the examination of which will

but confirm the position which has been laid down,—that the duty falls on the great exporting or producing interests of the country; and that, without reference to the question of consumption, specie itself being an article of import. But very little gold or silver is purchased in our country; and all that is imported must be paid for by what we export. The great interests, producing the articles of export, may be considered the purchasers and first receivers of the specie imported; which is only introduced in exchange for their export labor,—and on these interests, of course, must fall whatever depreciation in value the specie suffers in the home market, in consequence of the duties. In speaking of the export labor, your committee do not intend only the labor which is *directly* applied in producing the articles of export, but all others in the same portion of the country and immediately connected therewith. All such, as appendages of the great interests in question, must sink or rise with it. In its character, it is an associated, not an opposing interest; and suffers, instead of gaining by the depreciation of the main interest.

They have noticed this distinction, because the principle for which they contend,—that the duty falls on the exporting interests, has been supposed to place the whole burden on the immediate producers of the staples exported; and, under this erroneous view, has been considered as absurd. Viewed in this light, it has been pronounced impossible that the repeal of the Tariff could by any possibility, raise the profits of the planter forty per cent.;—which may be readily admitted, without affecting the principle for which your committee contend,—that the duty on imports necessarily falls on the exporting interests. That interest consists, not only of the planters, but of a large circle of interests, of which it is the centre, and which must suffer in common with it. It includes all locally connected with it,—professional men of every description,—teachers, public servants, merchants, artisans, overseers, and a long list of others;—the receipts of all of whom are

diminished in value, not only by receiving less money from the planters,—the ultimate payers,—and to which interest it is owing that their suffering under the system is mitigated,—but doubly from the diminution in the value of the money in their hands,—the means of obtaining their supplies,—in consequence of the system. The forty per cent. on the imports,—assuming it to be that,—diffuses itself over the whole of these great interests, by their immediate sympathy with the planting or exporting interests;—and when it is asserted that the State pays, in consequence of the duty, forty per cent. on her exports, it is not meant that the whole of that sum falls on the planters, who raise the eight millions of produce, by means of which the same amount of imports are paid for. The eight millions are in fact but a small portion of the annual labor of the State. It is but the surplus, intended for the supplies of the whole,—the annual product of whose labor,—estimating provisions, and putting a fair valuation on the services of the classes alluded to, and of others omitted, cannot, it is believed, be estimated at less than forty millions of dollars. Taken at this sum, which your committee present conjecturally, without any regular estimate or inquiry,—a duty of forty per cent. on the export labor, estimated at eight millions of dollars, would be but eight per cent. on the whole,—a sum, they believe, much less than the real burden imposed by the protective system.

But there is another great interest, very differently affected by the system, and which, in consequence of the depreciation of specie from the duties, is enabled to exchange the products of its labor more advantageously with the exporting interest; and which, of course, profits by the depreciation. This is true of all who are engaged in supplying the articles which, were it not for the duties, would be obtained more cheaply abroad,—and the interests immediately connected with them.

It has been already shown, that a sum in specie, which

would exchange for one hundred pieces of goods in Liverpool, or any other foreign port, would,—estimating the duty at forty per cent., only exchange at home for sixty pieces, in consequence of the duty ;—and it is perfectly clear, that those in our own country, engaged in manufacturing goods of the same description, and who, but for the duty, would have to give one hundred pieces for the specie in question, may now get it for sixty pieces. The duty, which would exact forty per cent. on the foreign exchange, does, in point of fact, give to the interest in question, forty per cent. on the domestic ; and it is thus, two great antagonist interests are created by the system ;—the *exporting*, and all others immediately connected with it ;—and that, which has been falsely called, the *home interest*, or *domestic industry*, with all of its immediate connections ;—interests, as it relates to the Tariff, directly opposed on all questions ;—on that of repealing or retaining ;—of diminishing or increasing,—and on all others connected therewith ; and which involve, in their consequences, the entire system of policy—extending from questions of economy and frugality of expenditure, up to those on which turn those great constitutional principles, on the observance of which, depends that,—the most important of all,—whether ours is a federation or consolidate system,—restricted or unrestricted,—despotic or free. On all these points, your committee again repeat,—what cannot be too deeply impressed,—that the South—the seat of the great exporting interests of the country—is in a fixed and hopeless minority ; and we may rest perfectly assured, that the great, antagonist majority-interest of the country, which controls the power of the General Government, through all its departments, according to the instinct of profit, will resist every limitation on those powers ;—because it would be, in fact, a limitation on its own ;—and that, unless we can find refuge in the Constitution itself, where our rights are held, not at the mercy of an interested majority, but under

the safeguard of three fourths of the States, as our associates and equals,—there is no safety for us. The period is now rapidly approaching, when this great issue must be finally determined. The payment of the public debt is now just at hand, when there will be no pretext to continue the present burden on us; and when it must be finally removed, or fixed in some more permanent, and more odious form. We have made every effort to enlighten our brethren, as to the character and amount of our burden. For years we have petitioned, remonstrated, and resolved. Our representatives have faithfully performed their duty. They have ably portrayed our suffering—the unjust, the unequal, and unconstitutional burden which we bear;—and, finally, we have joined the other States and interests, suffering with us, in a representation of our grievance, as a last effort at redress through the General Government. We wait the result. Should it fail, it will only remain for us, to sink down in hopeless submission, or to place this State on its sovereignty, and interpose its veto to arrest, within its limits, the encroachments on our constitutional rights; as the only peaceful means left, by which a great question, touching the construction of our constitutional compact, can be submitted to the august and conclusive jurisdiction of the States themselves, in their original and sovereign capacity, as parties to our great political *Association*;—a jurisdiction peculiar to our admirable political system;—which constitutes its great conservative principle;—but which, without the high right of interposition, on the part of the States, would be perfectly nugatory.

ADDRESS

To the People of South Carolina. Prepared for the Members of the Legislature, at the close of the Session of 1831.

In adopting a course, so unusual as that of directly addressing you, we deem no other explanation necessary, than to state that, after due reflection, we are of the impression the existing relations between this State and the General Government, are such as to demand the freest and most direct communication between your representatives and yourselves. The highly important questions which they involve, claimed and received our early and most deliberate attention. The one which so deeply excited your feelings during the late election (we allude to the call of a Convention of the State), was submitted for consideration, at an early period of the session; and, though sustained by a majority of the votes in each House, yet, not having two thirds in its favor, as required by the Constitution, the question was of course lost. We are not disposed to complain of the decision. The question was fairly submitted for your consideration, and the presumption is, that the vote of the Legislature truly represents your sentiments at this time; but while we acquiesce, we cannot but deeply regret the result. We fear it has put the great cause at issue in jeopardy,—while we feel the most thorough conviction that, had you been united, with zeal and energy, to defend your constitutional rights,—had you, with one united voice, invoked the sovereignty of the State, by the call of a Convention to devise the proper means of resistance to the encroachments of the General Government,—our wrongs would have been promptly, peaceably, and effectually redressed.

We know that other views are taken. We doubt not the honesty and sincerity of those who entertain them. Our object is, not to question the patriotism of others, but simply to express our regret at the unhappy want of union in this great crisis of our affairs; and our deep conviction of the efficacy of the means that had been proposed, and which are, for the present, lost by our divisions.

But while we lament the want of union, when so much needed, we are, in some degree, consoled by the reflection that, on the important point of our wrongs, there is little or no division of sentiment among us. With, perhaps, a few exceptions, all acknowledge the unconstitutional,—the unequal and oppressive burden imposed by the Tariff on this, and the other staple States; but many, even of those who are the devoted friends of State-Rights, and who doubt not that a State has the right to interpose its sovereignty, in order to protect its citizens against the encroachments of the General Government, believe it to be inexpedient to act at this time. They hope for redress from the General Government; a hope resting on the veto of the President, and the expectation of a returning sense of justice on the part of the majority. We cannot participate in this hope, for reasons which appear to us conclusive, but which we do not deem necessary to be *now* advanced. Time must soon decide the point to the conviction of all parties. Congress is now in session, and a few months must teach us all, what we have to expect from the General Government, much more effectually than the most elaborate argument could, at this time. If, contrary to our expectation, it should yield up the Tariff of protection,—surrender the taxing power as a means of encouraging the industry of one section at the expense of another, and abandon the claim of being the sole and exclusive expounder, as well of its own powers, as of those of the States, none will more sincerely rejoice than we, or be more prompt to admit, that we have been in error. We sought not the

present unhappy controversy, and would be most happy to close it on just and safe principles. We can have no object of ambition or interest, in continuing a dispute into which we were forced by an imperious sense of duty, and solely in defence of our constitutional rights. But if all these pleasing anticipations should fail, we cannot doubt, but that those friends of State-Rights, who have too readily yielded to, what we doubt not, will prove a delusion, will rally with us on the sovereignty of the State, as the only citadel of liberty and safety. In the mean time, during this pause of expectation, we must admonish you against a danger to which you may be exposed. The supporters of the system, by which you have been so long oppressed, foreseeing,—if nothing should be done, that you who are now divided, would then be united, and knowing that your union would endanger the whole, may resort to specious and unimportant modifications,* with a view to appease your just resentment, and to distract your councils. Should such a course be adopted, as is by no means improbable, and you should be blind enough to yield to such concessions, or to any other, except such as will amount to an abandonment of the system,—it would, in such case, have been better that you had never made a stand in defence of your rights. The principles, on which the system rests, would then be firmly established beyond the power of opposition,—ready to be wielded against you to their full extent, as opportunity offered. For of one

* This course was adopted by the "Supporters of the System." The Treasury Bill, reported by the Secretary, Mr. McLane, and subsequently passed by both Houses, contained these "*specious and unimportant modifications*," and nothing more. The reductions it proposed, were thrown almost exclusively on the *unprotected* articles, while the comparatively small amount taken from the list of *protected* articles, was more than counterbalanced by the introduction of cash duties,—diminished credit, and the change in the value of the pound sterling.—*Editor.*

truth, you may be perfectly satisfied,—that you have arrived at a period, which must practically settle the question, as to the real character of the General Government; and that, on your determined and unyielding efforts, the result, whether it is to prove an instrument of oppression, or of liberty, mainly depends. From the beginning, two opposite views were taken of our Constitution. While the question of its adoption was yet pending, its enemies every where pronounced it to be, in reality, though artfully disguised,—a consolidated Government; and, as a necessary consequence of extending a government of that form over a country of such vast extent of territory, and diversity of interest,—it would end in corruption, tyranny and monarchy. On the other hand, its friends, while they conceded that such would be the consequence of consolidation, asserted that it was a Federal, and not a consolidated Government; and that the States, as the guardians of the peculiar and local interests of the country, would oppose effectual barriers against any supposed tendency it might have to consolidation. The States, after a doubtful struggle, adopted the Constitution, with great distrust and powerful minorities; and rather from a fear of anarchy, through the feebleness of the Confederation, than confidence in the arguments of its supporters. To allay the apprehensions of the States, the 10th amendment to the Constitution was adopted, with the view of more effectually protecting the rights reserved to them, by confining the General Government more strictly to its limited and proper sphere of action. Yet what has been the result? But little more than forty years have elapsed, and the predictions of its opponents are almost fully realized. Scarcely a restraint, in fact, is left on the will of the General Government; and doctrines are openly and boldly avowed, which, if not successfully resisted, will give it unlimited power, and reduce the States to mere corporations. Already the painful consequences of consolidation,—discord, corruption and op-

pression, begin to disclose themselves; and in due time, if not arrested, aristocracy and monarchy must succeed. In this alarming crisis, you have taken a patriotic and noble stand, on the side of liberty and the States, against tyranny and consolidation; but a stand full of hazard and difficulties. You are left almost alone,—denounced as disorganizers and traitors by the advocates of power, and discountenanced even by many of those who have the same great interests at stake with yourselves. Thus situated, a great and solemn question is submitted for your decision,—Will you yield to the current, which is so strongly and fearfully sweeping away all of your chartered rights? or will you, in spite of discouragment and difficulties, fearless of consequences, boldly and magnanimously maintain your stand? We anticipate your decision; but as there may be those among you, who still hesitate between these alternatives, it may be well to consider what is our present situation, and what would be our future prospect, should we tamely submit to encroachments on our rights. In what manner, and to what extent, the Tariff (or, as it may be more properly called, the prohibitory system) affects your interests, has been so recently, and so fully demonstrated, that it would be idle to repeat the arguments on this occasion. Such has been the force of their truth, that even those who are most disposed to mitigate the evil effects of the system, acknowledge it to be so great, that it must, ultimately, if persisted in, destroy the great agricultural staple productions of the South,—the prolific source of all your wealth and prosperity. All the sophistry of self-interest cannot disguise the fact, that the system is palpably a tax on the industry of one portion of the country, bestowed in bounties, in various shapes, on that of another. We do not propose to go into a minute examination of the subject. A very simple illustration will amply establish the correctness of the position.

The object of all our toil and industry is, to obtain an

adequate supply of the necessaries, the conveniences, and luxuries of life. We, of the South, have one mode of obtaining these—and those of other sections, a different one. Our industry is mainly directed to the production of three great agricultural staples—rice, cotton, and tobacco;—a very small portion to be consumed by ourselves—and the residue to be exchanged for the woollens, the cottons, the iron, and a thousand other articles which we need, and which are produced by the labor of others. The industry of the other sections is, for the most part, directed to the immediate production of many of these articles. The object, on both sides, is the same—to obtain a supply of our wants; and we, who labor to do so, by clearing and fencing our lands—by planting, ploughing, and hoeing our crops of rice, cotton, and tobacco, may be said to make the articles; to obtain which, we labor as those do, who, with the same views, make and erect machinery, and spin, and weave, and forge. We only use different means of manufacturing;—each suited to their peculiar situation, and the nature and character of their industry. We are, then, all manufacturers; with different instruments, it is true, but with the same objects; and the Tariff, however disguised, is but a tax on our process, to be given, as a bounty, to the process used by the other sections. It compels us to take less in our exchanges with the rest of the world (an essential portion of our process of manufacturing our supplies),—in order that the other sections may secure more in their exchanges with us;—to compel us (to be more specific) to give more rice, cotton, and tobacco for every pound of iron, or yard of cloth we get from abroad, in order that they may secure more rice, cotton, and tobacco for every pound of iron, or yard of cloth they sell to us; while, at the same time they take to themselves our loss, in our foreign exchanges, exacted in the shape of duties on imports,—by appropriating the proceeds,—through the action of Congress, in [redacted] their

almost exclusive use. It is thus our industry is discouraged, that theirs may be encouraged,—ours despoiled, that theirs may be protected.

Let the subject be examined on the most refined principles of political economy,—still, we must arrive at the same result. Even, on the supposition that the consumer pays the tax, it will not be varied; as it is easy to show, that the act which imposes on the North a tax on what she consumes, gives her as a producer of a similar article to the foreign imported one, on which the duty is laid, a monopoly in the home market, which more than indemnifies her for what she pays as a consumer;—which is, in fact, returned, and more than returned, by increased employment,—increased prices for the products of her labor,—and increased appropriations from the public treasury;—all derived from the system,—which, while it taxes her as a consumer, secures to her, at the same time, the monopoly of the home market;—leaving the staple States to bear, in reality, almost exclusively, the burden of the system, without participating in any of its profits. When we see those, who deny our conclusion, and insist that they bear an equal portion of the burden, confirm the correctness of our argument, by refusing to remove that burden,—which they have the assurance to say they bear;—and, when we see that portion of the country, which furnishes almost all the means of our extensive and valuable commercial exchanges, and which possesses the greatest natural advantages, depressed and impoverished,—and the other, with less advantages, rising rapidly in wealth and numbers,—we may rest assured of the truth of our position.

But, as depressed as is our present condition, a still deeper gloom overhangs the future. The principle involved in the present controversy, is not yet half carried out in practice. It is susceptible of indefinite extension and application; and, as yet, we have tasted but the first-fruits of its bitterness. The majority, under the power in the Constitu-

tion to lay taxes, claims the right of laying duties, not only to raise revenue, but to regulate the industry of the country; —that is, to convert the power into the means, in reality, of establishing a system of penalties and rewards,—by which one branch of industry is repressed, that another may be rewarded. As yet, the principle has been applied only to the duties on imports, which is but a tax on the foreign exchanges of the country; but the same principle, by the same process of reasoning, may be applied to any species of taxes,—external and internal,—(the direct excepted,) and to any purpose that the majority may think to be for the general welfare;—to the Colonization Society, as well as to cotton and woollen manufactures. The taxing power, even when confined to its proper object,—as the means of revenue only, is one of the highest of political powers, and, we may add, among the most liable to be abused. When thus limited strictly to its object, it may, in a country of such vast extent, and of such diversity of industry and production as ours, be the means of severe and unequal oppression; notwithstanding the limitation in the Constitution, that all taxes shall be equal, or uniform amongst the States. A tax on rice, cotton, and tobacco or flour, would, in the meaning of the Constitution, be an equal or uniform tax,—but who does not see that, if laid, it would fall almost exclusively on the capital and industry of one section only; and might be made the means of rendering quite valueless the labor and capital employed in their production. Many of our ablest statesmen, when the adoption of the Constitution was under consideration, believed that a power, in its nature so irresponsible and liable to be abused, when applied to such a country as ours, was utterly incompatible with a federal system of government, and would, of itself, lead to consolidation. We appeal to the published reports of the debates in the Conventions of Massachusetts, New York, and Virginia, for the truth of this assertion. If such was their opinion of the taxing power, when considered

as the means of revenue only, what would they have thought, could they have anticipated its abuse, and seen this mighty power converted into a system of rewards and penalties,—indefinite as to extent and objects,—and uncontrolled, and uncontrollable, through the General Government, by those on whom, in fact, it operates? Such a power, in the hands of the General Government, is itself sufficient to control the whole industry and institutions of the country. That it would for ever be wielded against us, if we should permit it to be exercised, requires but little sagacity to perceive. On all questions connected with the moneyed action of the Government, we have been, and must ever continue to be in a minority. Our peculiar productions, and peculiar domestic institution, mark us as its certain victim, unless we can be protected by the interposed sovereignty of the States;—and we have thus presented a question of all others, to us, the most vital;—Can the sovereignty of a State, according to the principles of our political system, be constitutionally interposed to protect its citizens against the encroachments of the General Government,—or must they be borne with tame submission, or be resisted by rebellion? We, who believe that the States, prior to the formation of the present Government, were sovereign and independent communities,—that the Constitution is, in fact, but a compact between the people of the States, as distinct political bodies,—whereby they agreed to exercise certain specific powers *jointly*, through one General Government,—retaining, as to all others, not specified, and not inhibited to the States, to be exercised separately,—their sovereignty and independence unimpaired,—are at no loss to perceive, in the system, a peaceable and constitutional remedy against the encroachments of the General Government. To us it seems an inevitable consequence, that a State, as a party to the compact, and reserving under it the separate and exclusive exercise of important sovereign powers, has the right to judge of its infractions, and

to interpose her authority for the maintenance of her reserved rights,—she being the sole judge of the manner and measure of redress; and that the exercise of this right is neither secession nor rebellion,—as the State neither denies nor opposes thereby, the constitutional powers of the General Government;—her object being simply to protect her citizens against its encroachments; an act, in its principle and object, perfectly distinguishable from either of the others, and which cannot be confounded with them, without a strange confusion of ideas.

We know, that there is another and opposite theory of our political system; which holds, that the people, in their individual character, not as members of the States, but in the aggregate, as citizens of the Union, formed the Constitution;—that they delegated to the General Government the final and exclusive right, through the Department of its Judiciary, to determine what powers were delegated, and what reserved;—and that, if the General Government persists, there is no rightful and peaceful remedy against its acts, however unconstitutional and oppressive.

We have, in these two opposing views of the principles and character of our Government, the broad and essential distinction between the State-Rights and Consolidation parties. He who affirms, that the General Government emanated from the people as individuals, taken in the aggregate, and not from the States,—or that the General Government, whatever may be its origin, has the sole and exclusive right of determining what powers are delegated, and what reserved,—however correct he may be on all other points,—is, in fact, the advocate of a consolidated government. He, in truth, makes the General Government one of unlimited powers; for it is idle, and worse than idle, to attempt to distinguish, practically, between a government of unlimited powers, and one professedly of limited, but with an unlimited right to determine the extent of its powers. To admit the

distinction, would be, in fact, by that single act alone, to nullify the whole Constitution, and to place ourselves at the mercy of a majority, whose interests, in many most important particulars, are opposed to ours. It would be an act of folly to attempt to conceal the fact, that such an opposition of interests does, in reality, exist between the staple States and the other sections. It grows out of circumstances of a fixed and durable character; and the diversity cannot be accommodated by any force of legislation, however long continued and oppressive. It is the part of wisdom to see and admit a fact so important, and to take it into the estimate of measures; and not to expect to prevent its natural consequences by overlooking its existence. This diversity of interest has already, in this early stage of our political existence, brought us into direct and dangerous conflict on the great questions of trade,—of taxation,—of disbursement and appropriation,—and, finally, on the still more vitally important question, the nature, character, and powers of the General Government. Who, of any party, with the least pretension to candor, can deny that, on all these points,—so deeply important,—no two distinct nations can be more opposed, than this and the other sections? The journals and acts of Congress—the debates of its members—the proceedings of the State Legislatures—the newspapers and reviews, are all, for the last ten years, replete with evidence of this fact. The other sections insist, that free trade with all the world would be their ruin; while we see and feel, that it would be to us the greatest blessing, and that its loss has wasted and impoverished us. They are in favor of high duties,—*we* of low;—*they* advocate their increase and continuance,—*we*, their diminution and repeal;—*they* support extravagant appropriations for pensions, roads, canals, light-houses, and harbors,—*we* oppose these and all other wasteful expenditures;—and, finally, *they* favor a consolidated government of unlimited powers,—and *we* a federal and limited one. Thus

diametrically opposed on the greatest of all political questions, we find them in a fixed and settled majority, and we in a like minority; and, accordingly, their views of policy, in relation to these, and all other important subjects, permanently, and systematically overruling ours.

In reflecting on the extraordinary situation, in which we thus find ourselves placed under our political system, we are compelled to revert to the cause which renders a constitution necessary, and to inquire whether ours, under its actual operation, has fulfilled the proper objects of a constitution.

That all governments are actuated by a spirit of ambition and avarice, and that there is a universal tendency, in consequence, to the abuse of power,—be the form of government what it may—monarchical, aristocratical, or republican—and which, if unchecked, must lead to tyranny and oppression,—is a truth so well established by uniform experience, that it may be considered an axiom in political science. It is this universal tendency to abuse, which renders a constitution necessary—the main object of which, is to interpose efficient checks between the powers of the government and the rights of the governed, in order to prevent the former from oppressing the latter: and in making the inquiry,—whether our Constitution has fulfilled this great object, in its practical operation, it, of course, becomes necessary to determine, who constitutes the government, and who the governed, under our system. In a monarchy or aristocracy, such an inquiry would be unnecessary; but in a republic,—on the supposition that all power is in the hands of the people,—and that they constitute both the government and the governed, it is thought by many, that there is no distinction between the two—an error of the most dangerous character, and which has caused much misconception, as to the nature and character of our institutions.

In every government, the distinction between the government and the governed must of necessity exist. Even in

the most popular democracy, the whole body of the people never can, in this respect, bear the same relation to the government. There must, of necessity, exist a diversity of interests, in all communities ; and this diversity, in a democracy, must produce parties,—a majority, and a minority, —a stronger and a weaker ;—the former, in fact, constituting the government, and the latter the *governed ;*—having, as between them, the same tendency to abuse, and if not checked, ending in the same oppression, which must ever result, if not prevented, under all forms of government when individuals bear such a relation to one another. The histories of those ancient and modern republics, approaching nearest to a pure democracy, fully establish the truth of this position. The fact was well understood by those who framed the Constitution, which is, itself, a highly artificial and carefully devised body of provisions, intended as checks against this very tendency to abuse on the part of the Government; —and which, when properly understood, is most admirably calculated to effect its object. The experienced and wise men, who formed that instrument, had not the folly to trust, for the protection of liberty, to the naked principle,—that the majority has the right to govern,—however true and important the proposition, when properly understood. They saw most clearly that, however popular the system, checks must be interposed between the *governing majority*, and the *governed minority;*—an assertion, of the truth of which every part of the system furnishes ample testimony. They have, it is true, placed most of the powers delegated to the General Government, in the hands of the majority,—as they ought ;—but even here—to prevent abuse, not in the hands of a simple majority of the people, but a compounded majority, made up of the States and the people of the States. This majority constitutes the real governing power under the Constitution ; and, with a few exceptions, controls every act of the Government. It controls the Senate, which is elected

by the Legislatures of the several States;—the House of Representatives, which is elected by the people of the several States,—estimated in federal numbers;—the President, who is elected by the electors of the States,—each being entitled to a number equal to its Senators and Representatives;—and the judges, who are appointed by the President and Senate;—all of whom, are in reality, but the agents of this compound majority,—to whom they are responsible,—and by whose interest they must be finally controlled. Against the abuse of this governing power, an efficient guard, as it was believed, was provided. To prevent abuse, none but certain enumerated and general powers were delegated;—powers of a nature so universal, that all the States were interested in them,—and which, in their exercise, would, it was thought, affect the interests of every portion of the country in a similar manner;—and, therefore, be under the efficient check of the whole community. All other powers, as being in their nature particular and local, were reserved to the States respectively, and left, where the Constitution found them, under their guardianship and protection.

It must be apparent, from this account of the Government,—the truth of which can scarcely be contested,—that the only means of preventing the abuse of power, on the part of the General Government, is, to hold it strictly to the exercise of its delegated powers;—and that the States are the only powers by which this can be effected. If this position be true, it necessarily follows that, to give to the General Government the exclusive right (it matters not in what department lodged) of determining what powers are delegated to it, and what reserved to the States, is, in fact, to give to the united majority of the States and the people of the States—which we have shown controls the General Government, through all of its departments—unlimited power; and, thereby, to remove every barrier against the abuses of Government, and to subject us, the governed mi-

nority,—wherever our interests are dissimilar, or come in conflict with those of the governing majority,—to the most heartless and oppressive tyranny. As plain as these conclusions are, we know how difficult it is to cause them to be fully realized. It seems to be a settled maxim with many, that a majority has the right to govern, *inherently* and *absolutely ;*—without reflecting that, in a state of nature, no man has a right to govern another without his consent ; and that the right of the majority, under the social compact, to govern, is derived solely from the actual, or supposed consent of those who constitute the community ;—and that, of course, the will of the majority must be subordinate to the Constitution. Let us not be deceived by a mere sound. Until the multitude, as a body, shall become less ambitious and less avaricious than the individuals who compose it, there will be as much danger in trusting power to the majority, when their interests are opposed to those of the minority (as we have shown to be the fact in this case), as there would be, in trusting power to a single individual ;—and we might with truth add, that a constitution is as necessary, where a diversity of interests exist, between a majority and a minority, as between monarch and subjects—and that, to give a majority the sole right of expounding the Constitution, would be as fatal an error, as to give like power to the monarch. We might, in fact, truly assert, that there is greater need of a constitution, against the power of the majority, than that of the monarch ;—and more dangerous to invest the former than the latter, with the exclusive right of determining the extent of its powers. The power of one man is feeble, compared with that of a multitude ; and this feebleness gives, under a monarch some security to his subjects against abuses,—a security which, in modern times, is greatly increased through the force of public sentiment,—a power which holds the most despotic prince in awe ;—but, as against a majority, so far from checking abuse,

even this last sentinel is sure to desert the cause of liberty, and join the side of power.

Were we to submit to have our Constitution thus, in fact, abrogated, and our rights subjected to the will of an unchecked majority, our impoverishment would not be the greatest curse that must follow. The sense of inferiority is a much greater public evil than poverty. Under its baneful influence, the noble, high-minded, chivalric spirit of the State, would be bent down in low and base subserviency. Your generous sons, who should dare raise their voices against your oppression, would be denounced as *traitors;*— and as effectually excluded from all the honors of the General Government, as if they were alien enemies; while those only would be considered as fit candidates for advancement, who should deny your rights, and oppose your interests.

In thus presenting to you, freely and without disguise, our opinion of your actual condition and future prospects, we are actuated solely by a sense of duty. It is far from our thought or desire, to excite sectional animosity, or to do any thing to weaken the bonds of our Union; and if any thing, which has been said, should have that unhappy tendency, it must be attributed, not to our inclination, but to the dire necessity which left us no alternative, but to betray your rights, by the concealment of our sentiments,—or by presenting your wrongs, as they really exist, to incur the hazard of weakening your attachment to the Union. But, in the same spirit of candor and sincerity in which we have spoken of your oppression, we would, if a necessity existed, entreat you to permit no injustice in the administration of the Government to abate your attachment to its Constitution. If our interests be different, in many important particulars, from those of the other sections, let us not forget that they are the same, as to many and not less important; and that, if the Constitution has been perverted by a majority to oppress us, when our interests are dissimilar, let us bear in

mind, that, when confined to its proper sphere, that instrument is the only sure guarantee of our safety and respectability abroad, and our harmony and peace at home. Distinguishing, then, between the Constitution and its abuse, let us finally, in the spirit of patriotism and wisdom, aim at correcting the latter, without putting to hazard the former. Fortunately for us, our system, by the mutual action of its parts on one another, has, within itself, the power to correct the aberrations of all the bodies of which it is composed, without the hazard of a shock, or the fear of a catastrophe. When the powers of the General Government are perverted to objects not intended by the Constitution, we may look for redress with confidence to the States,—possessing inherently, as the primary bodies of the system, the rays of sovereignty in full plenitude,—except so far as they have been imparted to the General Government, to be reflected back, not in diminished, but increased splendor and glory. Of no truth do we feel a more thorough conviction, than that a State, to arrest the encroachments of the General Government, has only *to will it;* and that she need not bear oppression a moment longer than is necessary to unite her citizens in her defence. The advocates of consolidation may pronounce this the language of disorganization and treason; but he who views our Government in its true federal character,—as a compact among sovereign States,—each still retaining its sovereignty unimpaired, will smile at such denunciation; while he perceives, in the right of the State to interpose her sovereignty to arrest encroachments, not the source of discord or disunion, but of peace and harmony.

That those, who have not reflected maturely on the subject, or who value the Constitution merely as an instrument of power, and not as the means of preserving liberty, should resist, with all their might, a right on the part of the States calculated to prevent, so effectually, the improper enlargement of the powers of the General Government, by confining

it strictly to the objects for which it was created, is no more than what ought to be expected; and it is, therefore, no matter of surprise, to find all possible objections raised against the right. Among others, they have taken care to remind us, that the right may be abused; without remembering to inform us also, that liability to abuse is incidental to all powers; and that the true question is,—Which is the more liable to abuse—the check, or the power proposed to be checked?—the right of the State to interpose to arrest encroachments, or the exercise, in fact, of unlimited and uncontrolled power by the Government? On this question we take issue, and would readily rest the controversy on its determination.

We do not propose to go minutely into an examination of the question. It is one of too much magnitude to be so examined, on an occasion like the present; and we must, therefore, confine ourselves to a few general reflections.

That a consolidated government with unlimited powers, as ours would be, if the right of the States be denied,—must lead inevitably to despotism, has been conceded by all;—on the ground, that no other than a despotic government can be extended over so vast a country, except one strictly federal, and limited to the exercise of a few great, general powers. Against this danger, we have the hazard of anarchy, on the other side. Without determining which is most to be dreaded, despotism or anarchy (though we should think no sound mind can hesitate between them), we hold, that the danger of the latter, from the right of interposition on the part of the States, is by no means so certain as that of the former, from the uncontrolled power of the General Government. The motive and power to abuse, would both be feebler on the part of the States. Yield to the General Government the right of determining what powers belong to it, and what to the States, and, from the known principles of human nature, encroachments would never cease, while any power

worth absorbing, as a means to gratify ambition and avarice, remained; as no possible impediment would be presented to resist the will of a dominant majority. On the other hand, allow a State the right of interposition (a power, in fact, not to act, but to prevent action), and the dread of anarchy, itself, would constitute a most powerful check against its abuse; to which, if we add the united force of public opinion, on the part of the States, we have strong assurance that the right would not be wantonly or dangerously abused. But grant it should be,—and the system would, itself, furnish a powerful and efficient corrective. By an express provision of the Constitution, all derangements, defects, and uncertainties contained in it, or to which it is liable, may be corrected by amendments to the instrument, with the concurrence of two thirds of Congress, and three fourths of the States;—which would render it impossible for any State, unless sustained by a fourth of the Union, permanently and successfully to oppose the General Government. The question at issue, then, is thus brought to this simple point,—whether is it more safe that the majority shall have the power, by the force of construction, to alter the Constitution at its will, and as its selfish feelings may dictate,—uncontrolled by any check;—or that a State,—acting in her high sovereign character, through a convention, shall have the right to compel an abandonment of a power, which, on an appeal, may not be sustained by three fourths of the States. When we reflect, that the States have the deepest interest in the preservation of the Union, as the only certain guarantee of their peace and security;—that, from a sense of weakness and danger, they unanimously adopted the Constitution, voluntarily surrendering, thereby, the exercise of some of their dearest and most precious powers;—that the motives which originally led to the formation of the compact of union will impel, with equal strength, to its preservation, so long as the General Government shall limit the exercise of its powers to the ob-

jects for which it was created ;—and that the acknowledgment of the right of the States to interpose, would, of itself,—without being called into actual exercise,—form the most powerful means of so limiting the power of the General Government,—it would seem almost impossible to doubt, on which side the danger lies. We see, in fact, on one side, moderation, justice, concord and union ;—and, on the other, oppression, discord and violence: and let us not forget, in comparing the dangers of these opposing views of the principles of our system of Government, that excess of action is the great besetting sin of government, particularly in modern times. Instead of confining itself to the only legitimate objects for which it was created,—and without which it would be a nuisance,—protection against fraud and violence, either from without or within,—it must intermeddle with, and control and direct all the movements of society ;—and, by thus becoming the universal undertaker, it must, as a necessary consequence, become the universal purser of the community. Hence the endless and unequal burdens imposed on the governed, and the unequal and unjust distribution of wealth between the several classes or portions of the community ;—the effects of which, at this very moment, disturb the quiet of all civilized nations, and threaten universal revolution. No government is more deeply infected by this intermeddling spirit,—and in none is it more dangerous than ours, whose very existence, as a free and prosperous community, depends on moderation and forbearance in the exercise of its powers. If the establishment of the great right for which we contend, should have the happy effect of substituting a spirit of moderation and forbearance, in the place of that active and pestiferous spirit of interfering ;—if the Government should be taught thereby, that the highest wisdom of a State is, "a wise and masterly inactivity,"—an invaluable blessing will be conferred ;—our liberty will be saved, and our Union preserved.

However beset by difficulties we may be, in sustaining the great cause of constitutional liberty, we see much to cheer and impel to perseverance. We stand on the rock of truth and principle,—and have the highest assurance, from the spirit of the times, that, if we faint not, we must finally triumph. Look where we will, we shall find the spirit of inquiry abroad, and a growing intelligence spreading in every direction, which no injustice or oppression, however artfully concealed, or deeply intrenched, can evade or resist. When we see one of the leading nations of the world, under its auspices, expelling from his ancient and hereditary throne, a powerful monarch, surrounded by a numerous standing army, for the violation of its charter,—it would be in us pusillanimous and shameful to despair of the CAUSE OF THE CONSTITUTION.

LETTER

To General Hamilton on the subject of State Interposition.

FORT HILL, *August 28th*, 1832.

MY DEAR SIR—I have received your note of the 31st July, requesting me to give you a fuller development of my views than that contained in my address last summer, on the right of a State to defend her reserved powers against the encroachments of the General Government.

As fully occupied as my time is, were it doubly so, the quarter from which the request comes, with my deep conviction of the vital importance of the subject, would exact a compliance.

No one can be more sensible than I am that the address of last summer fell far short of exhausting the subject.

It was, in fact, intended as a simple statement of my views. I felt that the independence and candor which ought to distinguish one occupying a high public station, imposed a duty on me to meet the call for my opinion by a frank and full avowal of my sentiments, regardless of consequences. To fulfil this duty, and not to discuss the subject, was the object of the address. But, in making these preliminary remarks, I do not intend to prepare you to expect a full discussion on the present occasion. What I propose is, to touch some of the more prominent points that have received less of the public attention than their importance seems to me to demand.

Strange as the assertion may appear, it is, nevertheless, true, that the great difficulty in determining whether a State has the right to defend her reserved powers against the General Government, or, in fact, any right at all beyond those of a mere corporation, is to bring the public mind to realize plain historical facts connected with the origin and formation of the Government. Till they are fully understood it is impossible that a correct and just view can be taken of the subject. In this connection, the first and most important point is to ascertain who are the real authors of the Constitution of the United States—whose powers created it—whose voice clothed it with authority; and whose agent the Government it formed in reality is. At this point, I commence the execution of the task which your request has imposed.

The formation and adoption of the Constitution are events so recent, and all the connected facts so fully attested, that it would seem impossible that there should be the least uncertainty in relation to them; and yet, judging by what is constantly heard and seen, there are few subjects on which the public opinion is more confused. The most indefinite expressions are habitually used in speaking of them. Sometimes it is said that the Constitution was made by the States, and at others, as if in contradistinction, by the people,

without distinguishing between the two very different meanings which may be attached to those general expressions; and this not in ordinary conversation, but in grave discussions before deliberative bodies, and in judicial investigations, where the greatest accuracy on so important a point might be expected; particularly as one or the other meaning is intended, conclusions the most opposite must follow, not only in reference to the subject of this communication, but as to the nature and character of our political system. By a State may be meant either the Government of a State or the people, as forming a separate and independent community; and by the people, either the American people taken collectively, as forming one great community, or as the people of the several States, forming, as above stated, separate and independent communities. These distinctions are essential in the inquiry. If by the people be meant the people collectively, and not the people of the several States taken separately; and if it be true, indeed, that the Constitution is the work of the American people collectively; if it originated with them, and derives its authority from their will, then there is an end of the argument. The right claimed for a State of defending her reserved powers against the General Government, would be an absurdity. Viewing the American people collectively as a source of political power, the rights of the States would be mere concessions—concessions from the common majority, and to be revoked by them with the same facility that they were granted. The States would, on this supposition, bear to the Union the same relation that counties do to the States; and it would, in that case, be just as preposterous to discuss the right of interposition, on the part of a State, against the General Government, as that of the counties against the States themselves. That a large portion of the people of the United States thus regard the relation between the States and the General Government, including many who call themselves the

friends of State-Rights and opponents of consolidation, can scarcely be doubted, as it is only on that supposition it can be explained that so many of that description should denounce the doctrine for which the State contends as so absurd. But, fortunately, the supposition is entirely destitute of truth. So far from the Constitution being the work of the American people collectively, no such political body either now or ever did exist. In that character the people of this country never performed a single political act, nor, indeed, can, without an entire revolution in all our political relations.

I challenge an instance. From the beginning, and in all the changes of political existence through which we have passed, the people of the United States have been united as forming political communities, and not as individuals. Even in the first stage of existence, they formed distinct colonies, independent of each other, and politically united only through the British crown. In their first imperfect union, for the purpose of resisting the encroachments of the mother country, they united as distinct political communities; and passing from their colonial condition, in the act announcing their independence to the world, they declared themselves, by name and enumeration, free and independent States. In that character, they formed the old confederation; and, when it was proposed to supersede the articles of the confederation by the present Constitution, they met in convention as States, acted and voted as States; and the Constitution, when formed, was submitted for ratification to the people of the several States; it was ratified by them as States, each State for itself; each by its ratification binding its own citizens: the parts thus separately binding themselves, and not the whole the parts; to which, if it be added, that it is declared in the preamble of the Constitution to be ordained by the people of the *United States*, and in the article of ratification, when ratified, it is declared "*to be binding between the States so ratifying*," the

conclusion is inevitable, that the Constitution is the work of the people of the States, considered as separate and independent political communities; that they are its authors—their power created it, their voice clothed it with authority; that the government formed is, in reality, their agent; and that the Union, of which the Constitution is the bond, is a union of States, and not of individuals. No one, who regards his character for intelligence and truth, has ever ventured directly to deny facts so certain; but while they are too certain for denial, they are also too conclusive in favor of the rights of the States for admission. The usual course has been adopted—to elude what can neither be denied nor admitted; and never has the device been more successfully practised. By confounding States with State governments, and the people of the States with the American people *collectively*—things, as it regards the subject of this communication, totally dissimilar, as much so as a triangle and a square—facts of themselves perfectly certain and plain, and which, when well understood, must lead to a correct conception of the subject, have been involved in obscurity and mystery.

I will next proceed to state some of the results which necessarily follow from the facts which have been established.

The first, and, in reference to the subject of this communication, the most important, is, that there is *no direct* and *immediate* connection between the individual citizens of a State and the General Government. The relation between them is through the State. The Union is a union of States as communities, and not a union of individuals. As members of a State, her citizens were originally subject to no control but that of the State, and could be subject to no other, except by the act of the State itself. The Constitution was, accordingly, submitted to the States for their separate ratification; and it was only by the ratification of the State that its citizens became subject to the control of the General Government. The ratification of any other, or

all the other States, without its own, could create no connection between them and the General Government, nor impose on them the slightest obligation. Without the ratification of their own State, they would stand in the same relation to the General Government as do the citizens or subjects of any foreign state; and we find the citizens of North Carolina and Rhode Island actually bearing that relation to the Government for some time after it went into operation; these States having, in the first instance, declined to ratify. Nor had the act of any individual the least influence in subjecting him to the control of the General Government, except as it might influence the ratification of the Constitution by his own State. Whether subject to its control or not, depended wholly on the act of the State. His dissent had not the least weight against the assent of the State, nor his assent against its dissent. It follows, as a necessary consequence, that the act of ratification bound the State as a community, as is expressly declared in the article of the Constitution above quoted, and not the citizens of the State as individuals; the latter being bound through their State, and in consequence of the ratification of the former. Another, and a highly important consequence, as it regards the subject under investigation, follows with equal certainty; that, on a question whether a particular power exercised by the General Government be granted by the Constitution, it belongs to the State as a member of the Union, in her sovereign capacity in convention, to determine definitively, as far as her citizens are concerned, the extent of the obligation which she contracted; and if, in her opinion, the act exercising the power be unconstitutional, to declare it null and void, *which declaration would be obligatory on her citizens.* In coming to this conclusion, it may be proper to remark, to prevent misrepresentation, that I do not claim for a State the right to abrogate an act of the General Government. It is the Constitution that

annuls an unconstitutional act. Such an act is of itself void and of no effect. What I claim is, the right of the State, *as far as its citizens are concerned, to declare the extent of the obligation, and that such declaration is binding on them*—a right, when limited to its citizens, flowing directly from the relation of the State to the General Government on the one side, and its citizens on the other, as already explained, and resting on the most plain and solid reasons.

Passing over, what of itself might be considered conclusive, the obvious principle, that it belongs to the authority which imposed the obligation to declare its extent, as far as those are concerned on whom the obligation is placed, I shall present a single argument, which of itself is decisive. I have already shown that there is no immediate connection between the citizens of a State and the General Government, and that the relation between them is through the State. I have also shown that whatever obligations were imposed on the citizens, were imposed by the act of the State ratifying the Constitution. A similar act by the same authority, made with equal solemnity, declaring the extent of the obligation, must, as far as they are concerned, be of equal authority. I speak, of course, on the supposition that the right has not been transferred, as it will hereafter be shown that it has not. A citizen would have no more right to question the one than he would have the other declaration. They rest on the same authority; and as he was bound by the declaration of his State assenting to the Constitution, whether he assented or dissented, so would he be equally bound by a declaration declaring the extent of that assent, whether opposed to, or in favor of, such declaration. In this conclusion I am supported by analogy. The case of a treaty between sovereigns is strictly analogous. There, as in this case, the State contracts for the citizen or subject; there, as in this, the obligation is imposed by the State, and is independent of his will; and there, as in this, the declaration of the

State, determining the extent of the obligation contracted, *is obligatory on him,*—as much so as the treaty itself.

Having now, I trust, established the very important point, that the declaration of a State, as to the extent of the power granted, is obligatory on its citizens, I shall next proceed to consider the effects of such declarations in reference to the General Government ;—a question which necessarily involves the consideration of the relation between it and the States. It has been shown that the people of the States, acting as distinct and independent communities, are the authors of the Constitution, and that the General Government was organized and ordained by them to execute its powers. The Government, then, with all of its departments, is, in fact, the agent of the States, constituted to execute their joint will, as expressed in the Constitution.

In using the term agent, I do not intend to derogate in any degree from its character as a government. It is as truly and properly a government as are the State governments themselves. I have applied it simply because it strictly belongs to the relation between the General Government and the States, as, in fact, it does also to that between a State and its own government. Indeed, according to our theory, governments are in their nature but trusts, and those appointed to administer them, trustees or agents to execute the trust powers. The sovereignty resides elsewhere—in the people, not in the government ; and with us, *the people* mean *the people of the several States* originally formed into thirteen distinct and independent communities, and now into twenty-four. Politically speaking, in reference to our own system, there are *no other people.* The General Government, as well as those of the States, is but the organ of their power : the latter, that of their respective States, through which are exercised separately that portion of power not delegated by the Constitution, and in the exercise of which each State has a local and peculiar interest ; the former, the joint organ of all the

States confederated into one general community, and through which they jointly and concurringly exercise the delegated powers, in which all have a common interest. Thus viewed, the Constitution of the United States, with the government it created, is truly and strictly the Constitution of each State,—as much so as its own particular Constitution and Government, ratified by the same authority,—in the same mode, and having, as far as its citizens are concerned, its powers and obligations from the same source,—differing only in the aspect under which I am considering the subject,—in the *plighted faith* of the State to its co-States, and of which, as far as its citizens are considered, the State, in the last resort, is the exclusive judge.

Such, then, is the relation between the State and General Government, in whatever light we may consider the Constitution, whether as a compact between the States, or of the nature of the legislative enactment by the joint and concurring authority of the States in their high sovereignty. In whatever light it may be viewed, I hold it as necessarily resulting, that, in the case of a power disputed between them, the Government, as the agent, has no right to enforce its construction against the construction of the State as one of the sovereign parties to the Constitution, any more than the State government would have against the people of the State in their sovereign capacity,—the relation being the same between them. That such would be the case between agent and principal in the ordinary transactions of life, no one will doubt; nor will it be possible to assign a reason why it is not as applicable to the case of governments as to that of individuals. The principle, in fact, springs from the *relation itself*, and *is applicable to it in all its forms and characters.* It may, however, be proper to notice a distinction between the case of a single principal and his agent, and that of several principals and their joint agent, which might otherwise cause some confusion. In both cases, as between the

agent and a principal, the construction of the principal, whether he be a single principal or one of several, is equally conclusive; but, in the latter case, both the principal and the agent bear relation to the other principals, which must be taken into the estimate, in order to understand fully all the results which may grow out of the contest for power between them. Though the construction of the principal is conclusive against the joint agent, as between them, such is not the case between him and his associates. They both have an equal right of construction, and it would be the duty of the agent to bring the subject before the principal to be adjusted, according to the terms of the instrument of association, and of the principal to submit to such adjustment. In such cases the contract itself is the law which must determine the relative rights and powers of the parties to it. The General Government is a case of joint agency—the joint agent of the twenty-four sovereign States. It would be its duty, according to the principles established in such cases, instead of attempting to enforce its construction of its powers against that of the States, to bring the subject before the States themselves, in the only form which, according to the provision of the Constitution, it can be—by a proposition to amend, in the manner prescribed in the instrument, to be acted on by them in the only mode they can, by expressly granting or withholding the contested power. Against this conclusion there can be raised but one objection, that the States have surrendered or transferred the right in question. If such be the fact, there ought to be no difficulty in establishing it. The grant of the powers delegated is contained in a written instrument, drawn up with great care, and adopted with the utmost deliberation. It provides that the powers not granted are reserved to the States or the people. If it be surrendered, let the grant be shown, and the controversy will be terminated; and, surely, it ought to be shown, plainly and clearly shown, before the States are asked to ad-

dit what, if true, would not only divest them of a right which, under all its forms, belongs to the principal over his agent, unless surrendered, but which cannot be surrendered without in effect, and for all practical purposes, reversing the relation between them; putting the agent in the place of the principal, and the principal in that of the agent; and which would degrade the States from the high and sovereign condition which they have ever held, under every form of their existence, to be mere subordinate and dependent corporations of the Government of its own creation. But, instead of showing any such grant, not a provision can be found in the Constitution *authorizing the General Government to exercise any control whatever over a State* by force, by veto, by judicial process, or in any other form—*a most important omission, designed, and not accidental*, and as will be shown in the course of these remarks,—omitted by the dictates of the profoundest wisdom.

The journal and proceedings of the Convention which formed the Constitution afford abundant proof that there was in the body a powerful party, distinguished for talents and influence, intent on obtaining for the General Government a grant of the very power in question, and that they attempted to effect this object in all possible ways, but, fortunately, without success. The first project of a Constitution submitted to the Convention (Governor Randolph's) embraced a proposition to grant power "to negative all laws contrary, in the opinion of the National Legislature, to the articles of the Union, or any treaty subsisting under the authority of the Union; and 'to call forth the force of the Union against any member of the Union failing to fulfil its duty under the articles thereof." The next project submitted (Charles Pinckney's) contained a similar provision. It proposed, that the Legislature of the United States should have the power to revise the laws of the several States that may be supposed to infringe the powers exclusively delegated by this Constitution to Congress, and to

negative and annul such as do." The next was submitted by Mr. Patterson, of New Jersey, which provided, "if any State, or body of men in any State shall oppose or prevent the carrying into execution such acts or treaties" (of the Union), the Federal Executive shall be authorized to call forth the powers of the confederated States, or so much thereof as shall be neccessary to enforce, or compel the obedience to such acts, or observance of such treaties." General Hamilton's next succeeded, which declared "all laws of the particular States contrary to the Constitution or laws of the United States, to be utterly void; and, the better to prevent such laws being passed, the Governor or President of each State shall be appointed by the General Government, and shall have a negative on the laws about to be passed in the State of which he is Governor or President."

At a subsequent period, a proposition was moved and referred to a committee, to provide that "the jurisdiction of the Supreme Court shall extend to all controversies between the United States and any individual State; and, at a still later period, it was moved to grant power "to negative all laws passed by the several States interfering, in the opinion of the Legislature, with the general harmony and interest of the Union, provided that two thirds of the members of each House assent to the same," which, after an ineffectual attempt to commit, was withdrawn.

I do not deem it necessary to trace through the journals of the Convention the fate of these various propositions. It is sufficient that they were moved and failed, to prove conclusively, in a manner never to be reversed, that the Convention which framed the Constitution, was opposed to granting the power to the General Government in any form, through any of its departments, legislative, executive, or, judicial, to coerce or control a State, though proposed in all conceivable modes, and sustained by the most talented and influential members of the

body. This, one would suppose, ought to settle for ever the question of the surrender or transfer of the power under consideration; and such, in fact, would be the case, were the opinion of a large portion of the community not biased, as, in fact, it is, by interest. A majority have almost always a direct interest in enlarging the power of the Government, and the interested adhere to power with a pertinacity which bids defiance to truth, though sustained by evidence as conclusive as mathematical demonstration; and, accordingly, the advocates of the powers of the General Government, notwithstanding the impregnable strength of the proof to the contrary, have boldly claimed, on construction, a power, the grant of which was so perseveringly sought and so sternly resisted by the Convention. They rest the claim on the provisions in the Constitution, which declare "that this Constitution, and the laws made in pursuance thereof, shall be the supreme law of the land," and that "the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made, or which shall be made under their authority."

I do not propose to go into a minute examination of these provisions. They have been so frequently and so ably investigated, and it has been so clearly shown that they do not warrant the assumption of the power claimed for the Government, that I do not deem it necessary. I shall, therefore, confine myself to a few detached remarks.

I have already stated that a distinct proposition was made to confer the very power in controversy on the Supreme Court, which failed; and which, of itself, ought to overrule the assumption of the power by construction, unless sustained by the most conclusive arguments; but when it is added that this proposition was moved (20th August) subsequent to the period of adopting the provisions, above cited, vesting the Court with its present powers (18th July), and that an effort was made, at a still later period (23d August),

to invest Congress with a negative on all State laws which, in its opinion, might interfere with the general interest and harmony of the Union, the argument would seem too conclusive against the powers of the Court to be overruled by construction, however strong.

Passing, however, by this, and also the objection that the terms "*cases in law and equity*" are technical, embracing only questions between parties *amenable* to the process of the Court, and, of course, excluding questions between the States and the General Government—an argument which has never been answered—there remains another objection perfectly conclusive.

The construction which would confer on the Supreme Court the power in question, rests on the ground that the Constitution has conferred on that tribunal the high and important right of deciding on the *constitutionality of laws*. That it possesses this power I do not deny;—but I do utterly that it is conferred by the Constitution either in the provisions above cited, or any other. It is a power derived from the necessity of the case; and, so far from being possessed by the Supreme Court exclusively or peculiarly, it not only belongs to every Court of the country, high or low, civil or criminal, but to all foreign Courts, before which a case may be brought involving the construction of a law which may conflict with the provisions of the Constitution. The reason is plain. Where there are two sets of rules prescribed in reference to the same subject, one by a higher and the other by an inferior authority, the judicial tribunal called in to decide on the case, must unavoidably determine, should they conflict, which is the law; and that necessity compels it to decide that the rule prescribed by the inferior power, if in its opinion inconsistent with that of the higher, is void,—be it a conflict between the Constitution and a law, or between a charter and the by-laws of a corporation, or any other higher and inferior authority. The principle and source of autho-

rity are the same in all such cases. Being derived from necessity, it is restricted within its limits, and cannot pass an inch beyond the narrow confines of deciding, in a case before the Court, and, of course, between parties amenable to its process,—excluding thereby political questions,—which of the two is, in reality, the law, the act of Congress or the Constitution, when on their face they are inconsistent; and yet, from this resulting limited power,—derived from necessity, and held in common with every Court in the world which, by possibility, may take cognizance of a case involving the interpretation of our Constitution and laws,—it is attempted to confer on the Supreme Court a power which would work a thorough and radical change in our system, and which, moreover, was positively refused by the Convention.

The opinion that the General Government has the right to enforce its construction of its powers against a State in any mode whatever, is, in truth, founded on a fundamental misconception of our system. At the bottom of this, and, in fact, almost every other misconception as to the relation between the States and the General Government, lurks the radical error, that the latter is a national, and not, as in reality it is, a confederated Government; and that it derives its powers from a higher source than the States. There are thousands influenced by these impressions without being conscious of it, and who, while they believe themselves to be opposed to consolidation, have infused into their conception of our Constitution almost all the ingredients which enter into that form of government. The striking difference between the present government and that under the old confederation (I speak of governments as distinct from constitutions) has mainly contributed to this dangerous impression. But however dissimilar their governments, the present *Constitution is as far removed from consolidation, and is as strictly and as purely a confederation, as the one which it superseded.*

Like the old confederation, it was formed and ratified

by State authority. The only difference in this particular is, that one was ratified by the people of the States, and the other by the State Governments; one forming strictly a union of the State Governments,—the other of the States themselves; one, of the agents exercising the powers of sovereignty, and the other, of the sovereigns themselves; but both were unions of political bodies, as distinct from a union of the people individually. They are, indeed, *both confederations*, but the present in a higher and purer sense than that which it succeeded,—just as the act of a sovereign is higher and more perfect than that of his agent; and it was, doubtless, in reference to this difference that the preamble of the Constitution, and the address of the Convention laying the Constitution before Congress, speak of consolidating and perfecting the Union; yet this difference, which, while it elevated the General Government in relation to the State Governments, placed it more immediately in the relation of the *creature and agent* of the States themselves, by a natural misconception, has been the principal cause of the impression so prevalent of the inferiority of the States to the General Government, and of the consequent right of the latter to coerce the former. Raised from below to the same level with the State Governments, it was conceived to be placed above the States themselves.

I have now, I trust, conclusively shown that a State has a right, in her sovereign capacity, in convention, to declare an unconstitutional act of Congress to be null and void, and that such declarations would be obligatory on her citizens,—as highly so as the Constitution itself,—and conclusive against the General Government, which would have no right to enforce its construction of its powers against that of the State.

I next propose to consider the practical effect of the exercise of this high and important right—which, as the great conservative principle of our system, is known under the various names of nullification, interposition, and State

veto—in reference to its operation viewed under different aspects: nullification,—as declaring null an unconstitutional act of the General Government, as far as the State is concerned; interposition,—as throwing the shield of protection between the citizens of a State and the encroachments of the Government; and veto,—as arresting or inhibiting its unauthorized acts within the limits of the State.

The practical effect, if the right was fully recognized, would be plain and simple, and has already, in a great measure, been anticipated. If the State has a right, there must, of necessity, be a corresponding obligation on the part of the General Government to acquiesce in its exercise; and, of course, it would be its duty to abandon the power, at least as far as the State is concerned,—to compromise the difficulty,—or apply to the States themselves, according to the form prescribed in the Constitution, to obtain the power by a grant. If granted, acquiescence, then, would be a duty on the part of the State; and, in that event, the contest would terminate in converting a doubtful constructive power into one positively granted; but should it not be granted, no alternative would remain for the General Government but a compromise or its permanent abandonment. In either event, the controversy would be closed and the Constitution fixed: a result of the utmost importance to the steady operation of the Government and the stability of the system, and which can never be attained, under its present operation, without the recognition of the right, as experience has shown.

From the adoption of the Constitution, we have had but one continued agitation of constitutional questions embracing some of the most important powers exercised by the Government; and yet, in spite of all the ability and force of argument displayed in the various discussions, backed by the high authority claimed for the Supreme Court to adjust such controversies, not a single constitutional question, of a political character, which has ever been agitated during this long

period, has been settled in the public opinion, except that of the unconstitutionality of the Alien and Sedition Law; and, what is remarkable, that was settled *against the decision of the Supreme Court.* The tendency is to increase, and not diminish, this conflict for power. New questions are yearly added without diminishing the old; while the contest becomes more obstinate as the list increases, and, what is highly ominous, more sectional. It is impossible that the Government can last under this increasing diversity of opinion, and growing uncertainty as to its power in relation to the most important subjects of legislation; and equally so, that this dangerous state can terminate without a power somewhere to compel, in effect, the Government to abandon doubtful constructive powers, or to convert them into positive grants by an amendment of the Constitution; in a word, to substitute the positive grants of the parties themselves for the constructive powers interpolated by the agents. Nothing short of this, in a system constructed as ours is, with a double set of agents,—one for local, and the other for general purposes,—can ever terminate the conflict for power, or give uniformity and stability to its action.

Such would be the practical and happy operation were *the right recognized;* but the case is far otherwise; and as the right is not only denied, but violently opposed, the General Government, so far from acquiescing in its exercise, and abandoning the power, as it ought, may endeavor, by all the means within its command, to enforce its construction against that of the State. It is under this aspect of the question that I now propose to consider the practical effect of the exercise of the right, with the view to determine which of the two, the State or the General Government, must prevail in the conflict; which compels me to revert to some of the grounds already established.

I have already shown that the declaration of nullification would be obligatory on the citizens of the State;—as much

so, in fact, as its declaration ratifying the Constitution, resting, as it does, on the same basis. It would *to them* be the highest possible evidence that the power contested was not granted, and, of course, that the act of the General Government was unconstitutional. They would be bound, in all the relations of life, private and political, to respect and obey it; and, when called upon as jurymen, to render their verdict accordingly,—or as judges, to pronounce judgment in conformity with it. The right of jury trial is secured by the Constitution (thanks to the jealous spirit of liberty, doubly secured and fortified); and, with this inestimable right—inestimable, not only as an essential portion of the judicial tribunals of the country, but infinitely more so, considered as a popular, and still more, a local representation, in that department of the Government which, without it, would be the farthest removed from the control of the people, and a fit instrument to sap the foundation of the system—with, I repeat, this inestimable right, it would be impossible for the General Government, within the limits of the State, to execute, *legally*, the act nullified, or any other passed with a view to enforce it; while, on the other hand, the State would be able to enforce, *legally and peaceably*, its declaration of nullification. Sustained by its courts and juries, it would calmly and quietly, but successfully, meet every effort of the General Government to enforce its claim of power. The result would be inevitable. Before the judicial tribunals of the country, the State must prevail, unless, indeed, jury trial could be eluded by the refinement of the Court, or by some other device; which, however, guarded as it is by the ramparts of the Constitution, would, I hold, be impossible. The attempt to elude, should it be made, would itself be unconstitutional; and, in turn, would be annulled by the sovereign voice of the State. Nor would the right of appeal to the Supreme Court, under the judiciary act, avail the General Government. If taken, it would but end in a new trial, and

that in another verdict against the Government ; but whether it may be taken, would be optional with the State. The Court itself has decided that a copy of the record is requisite to review a judgment of a State court, and, if necessary, the State would take the precaution to prevent, by proper enactments, any means of obtaining a copy. But if obtained, what would it avail against the execution of the penal enactments of the State, intended to enforce the declaration of nullification ? The judgment of the State court would be pronounced and executed before the possibility of a reversal, —and executed, too, without responsibility incurred by any one.

Beaten before the courts, the General Government would be compelled to abandon its unconstitutional pretensions, or resort to force ; a resort, the difficulty (I was about to say, the impossibility) of which would very soon fully manifest itself, should folly or madness ever make the attempt.

In considering this aspect of the controversy, I pass over the fact that the General Government has no right to resort to force against a State—to coerce a sovereign member of the Union—which, I trust, I have established beyond all possible doubt. Let it, however, be determined to use force, and the difficulty would be insurmountable, unless, indeed, it be also determined to set aside the Constitution, and to subvert the system to its foundations.

Against whom would it be applied ? Congress has, it is true, the right to call forth the militia "to execute the laws and suppress insurrection ;" but there would be no law resisted, unless, indeed, it be called resistance for the juries to refuse to find, and the courts to render judgment, in conformity with the wishes of the General Government ; no insurrection to suppress ; no armed force to reduce ; not a sword unsheathed ; not a bayonet raised ; none, absolutely none, on whom force could be used, except it be on the un-

armed citizens engaged peaceably and quietly in their daily occupations.

No one would be guilty of treason ("levying war against the United States, adhering to their enemies, giving them aid and comfort"), or any other crime made penal by the Constitution or the laws of the United States.

To suppose that force could be called in, implies, indeed, a great mistake both as to the nature of our Government and that of the controversy. It would be a legal and constitutional contest—a conflict of moral, and not physical force—a trial of constitutional, and not military power,—to be decided before the judicial tribunals of the country, and not on the field of battle. In such contest, there would be no object for force, but those peaceful tribunals—nothing on which it could be employed, but in putting down courts and juries, and preventing the execution of judicial process. Leave these untouched, and all the militia that could be called forth, backed by a regular force of ten times the number of our small, but gallant and patriotic army, could have not the slightest effect on the result of the controversy; but subvert these by an armed body, and you subvert the very foundation of this our free, constitutional, and legal system of government, and rear in its place a military despotism.

Feeling the force of these difficulties, it is proposed, with the view, I suppose, of disembarrassing the operation, as much as possible, of the troublesome interference of courts and juries, to change the scene of coercion from land to water; as if the Government could have one particle more right to coerce a State by water than by land; but, unless I am greatly deceived, the difficulty on that element will not be much less than on the other. The jury trial, at least the local jury trial (the trial by the vicinage), may, indeed, be evaded there, but in its place other, and not much less formidable, obstacles must be encountered.

There can be but two modes of coercion resorted to by

water—blockade and abolition of the ports of entry of the State, accompanied by penal enactments, authorizing seizures for entering the waters of the State. If the former be attempted, there will be other parties besides the General Government and the State. Blockade is a belligerent right; it presupposes a state of war, and, unless there be war (war in due form, as prescribed by the Constitution), the order for blockade would not be respected by other nations or their subjects. Their vessels would proceed directly for the blockaded port, with certain prospects of gain; if seized under the order of blockade, through the claim of indemnity against the General Government; and, if not, by a profitable market, without the exaction of duties.

The other mode, the abolition of the ports of entry of the State, would also have its difficulties. The Constitution provides that "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another;" provisions too clear to be eluded even by the force of construction. There will be another difficulty. If seizures be made in port, or within the distance assigned by the laws of nations as the limits of a State, the trial must be in the State, with all the embarrassments of its courts and juries; while beyond the ports and the distance to which I have referred, it would be difficult to point out any principle by which a foreign vessel, at least, could be seized, except as an incident to the right of blockade, and, of course, with all the difficulties belonging to that mode of coercion.

But there yet remains another, and, I doubt not, insuperable barrier, to be found in the judicial tribunals of the Union, against all the schemes of introducing force, whether by land or water. Though I cannot concur in the opinion of those who regard the Supreme Court as the mediator appointed by the Constitution between the States and the

General Government; and though I cannot doubt there is a natural bias on its part towards the powers of the latter, yet I must greatly lower my opinion of that high and important tribunal for intelligence, justice, and attachment to the Constitution,—and particularly of that pure and upright magistrate who has so long, and with such distinguished honor to himself and the Union, presided over its deliberations, with all the weight that belongs to an intellect of the first order, united with the most spotless integrity,—to believe, for a moment, that an attempt so plainly and manifestly unconstitutional as a resort to force would be in such a contest, could be sustained by the sanction of its authority. In whatever form force may be used, it must present questions for legal adjudication. If in the shape of blockade, the vessels seized under it must be condemned, and thus would be presented the question of prize or no prize, and, with it, the legality of the blockade; if in that of a repeal of the acts establishing ports of entries in the State, the legality of the seizure must be determined, and that would bring up the question of the constitutionality of giving a preference to the ports of one State over those of another; and so, if we pass from water to land, we will find every attempt there to substitute force for law must, in like manner, come under the review of the courts of the Union; and the unconstitutionality would be so glaring, that the Executive and Legislative Departments, in their attempt to coerce, should either make an attempt so lawless and desperate, would be without the support of the Judicial Department. I will not pursue the question farther, as I hold it perfectly clear that, so long as a State retains its federal relations; so long, in a word, as it continues a member of the Union, the contest between it and the General Government must be before the courts and juries; and every attempt, in whatever form, whether by land or water, to substitute force as the arbiter in their place,

must fail. The unconstitutionality of the attempt would be so open and palpable, that it would be impossible to sustain it.

There is, indeed, one view, and one only, of the contest, in which force could be employed ; but that view, as between the parties, would supersede the Constitution itself :—that nullification is secession,—and would, consequently, place the State, as to the others, in the relation of a foreign state. Such, clearly, would be the effect of secession ; but it is equally clear that it would place the State beyond the pale of all her federal relations, and, thereby, all control on the part of the other States over her. She would stand to them simply in the relation of a foreign state, divested of all federal connection, and having none other between them but those belonging to the laws of nations. Standing thus towards one another, force might, indeed, be employed against a State, but it must be a belligerent force, preceded by a declaration of war, and carried on with all its formalities. Such would be the certain effect of secession ; and if nullification be secession—if it be but a different name for the same thing—such, too, must be its effect ; which presents the highly important question, Are they, in fact, the same ? on the decision of which depends the question whether it be a *peaceable* and *constitutional* remedy that may be exercised without *terminating* the *federal* relations of the State *or not.*

I am aware that there is a considerable and respectable portion of our State, with a very large portion of the Union, constituting, in fact, a great majority, who are of the opinion that they are the same thing, differing only in name, and who, under that impression, denounce it as the most dangerous of all doctrines ; and yet, so far from being the same, they are, unless, indeed, I am greatly deceived, not only perfectly distinguishable, but totally dissimilar in their nature, their object, and effect ; and that, so far from deserving the denunciation, so properly belonging to the act with which it

is confounded, it is, in truth, the highest and most precious of all the rights of the States, and essential to preserve that very Union, for the supposed effect of destroying which it is so bitterly anathematized.

I shall now proceed to make good my assertion of their *total dissimilarity.*

First, they are wholly dissimilar in their nature. *One has reference to the parties themselves, and the other to their agents.* Secession is a *withdrawal from the Union ;* a separation from *partners,* and, as far as depends on the member withdrawing, a *dissolution* of the partnership. It presupposes an association ; a union of several States or individuals for a common object. Wherever these exist, secession may ; and where they do not, it cannot. Nullification, on the contrary, *presupposes the relation of principal and agent :* the one granting a power to be executed,—the other, appointed by him with authority to execute it ; *and is simply a declaration on the part of the principal, made in due form, that an act of the agent transcending his power is null and void.* It is a right belonging exclusively to the relation between principal and agent, to be found *wherever it exists, and in all its forms,* between several, or an association of principals, and their joint agents, as well as between a single principal and his agent.

The difference in their object is no less striking than in their nature. The object of secession is to *free* the withdrawing member from the *obligation* of the association or union, and is applicable to cases where the object of the association or union *has failed,* either by an abuse of power on the part of *its members,* or other causes. Its *direct and immediate object, as it concerns the withdrawing member, is the dissolution of the association or union,* as far as it is concerned. On the contrary, the object of nullification is to confine the agent within the limits of his powers, by arresting his acts transcending them, *not with the view of destroying*

the delegated or trust power, but to preserve it, by compelling the agent to fulfil the object for which the agency or trust was created; and is applicable only to cases where the trust or delegated powers are transcended on the part of the agent. Without the power of secession, an association or union, formed for the common good *of all* the members, might prove ruinous to some, by the abuse of power on the part of the others; and without nullification the agent might, under color of construction, assume a power never intended to be delegated, or to convert those delegated to objects never intended to be comprehended in the trust, to the ruin of the principal, or, in case of a joint agency, to the ruin of some of the principals. Each has, thus, its appropriate object, but objects in their nature very dissimilar; so much so, that, in case of an association or union, where the powers are delegated to be executed by an agent, the abuse of power, on the part of the *agent*, to the injury of one or more of the members, would not justify secession on their part. The rightful remedy in that case would be nullification. There would be neither right nor pretext to secede: not right, because secession is applicable only to the acts of the members of the association or union, and not to the act of the agent; nor pretext, because there is another, and equally efficient remedy, short of the dissolution of the association or union, which can only be justified by necessity. Nullification may, indeed, be succeeded by secession. In the case stated, should the other members undertake to grant the power nullified, and should the nature of the power be such as to *defeat the object of the association or union*, at least as far as the member nullifying is concerned, it would then become an abuse of power on the part of the principals, and thus present a case where secession would apply; but in no other could it be justified, except it be for a failure of the association or union to effect the object for which it was created, independent of any abuse of power.

It now remains to show that their effect is as dissimilar as their nature or object.

Nullification leaves the members of the association or union in the condition it found them—subject to all its burdens, and entitled to all its advantages, comprehending the member nullifying as well as the others—its object being, not to destroy, but to preserve, as has been stated. It simply arrests the act of the agent, as far as the principal is concerned, leaving in every other respect the operation of the joint concern as before; secession, on the contrary, destroys, as far as the withdrawing member is concerned, the association or union, and restores him to the relation he occupied towards the other members before the existence of the association or union. He loses the benefit, but is released from the burden and control, and can no longer be dealt with, by his former associates, as one of its members.

Such are clearly the differences between them—differences so marked, that, instead of being identical, as supposed, they form a contrast in all the aspects in which they can be regarded. The application of these remarks to the political association or Union of these twenty-four States and the General Government, their joint agent, is too obvious, after what has been already said, to require any additional illustration, and I will dismiss this part of the subject with a single additional remark.

There are many who acknowledge the right of a State to secede, but deny its right to nullify; and yet, it seems impossible to admit the one without admitting the other. They both presuppose the same structure of the Government,—that it is a Union of the States, as forming political communities,—the same right on the part of the States, as members of the Union, to determine for their citizens the extent of the powers delegated and those reserved,—and, of course, to decide whether the Constitution has or has not been violated. The simple difference, then, between those who admit seces-

sion and deny nullification, and those who admit both, is, that one acknowledges that the declaration of a State pronouncing that the Constitution has been violated, and is, therefore, null and void, would be obligatory on her citizens, and would arrest all the acts of the Government within the limits of the State ; while they deny that a similar declaration, made by the same authority, and in the same manner, that an act of the Government has transcended its powers, and that it is, therefore, null and void, would have any obligation ; while the other acknowledges the obligation in both cases. The one admits that the declaration of a State assenting to the Constitution bound her citizens, and that her declaration can unbind them ; but denies that a similar declaration, as to the extent she has, in fact, bound them, has any obligatory force on them ; while the other gives equal force to the declaration in the several cases. The one denies the obligation, where the object is to *preserve the Union in the only way it can be*, by confining the Government, formed to execute the trust powers, strictly within their limits, and to the objects for which they were delegated, though they give *full* force where the object is *to destroy the Union itself;* while the other, in giving equal weight to both, *prefers the one because it preserves*, and *rejects the other because it destroys ;* and yet the former is the *Union*, and the latter the *disunion party !* And all this strange distinction originates, as far as I can judge, in attributing to nullification what belongs exclusively to secession. The difficulty as to the former, it seems, is, that a State cannot be in and out of the Union at the same time.

This is, indeed, true, if applied to secession—the throwing off *the authority of the Union itself.* To nullify the Constitution, if I may be pardoned the solecism, would, indeed, be tantamount to disunion ; and, as applied to such an act it would be true that a State could not be in and out of the Union at the same time ; but the act would be secession.

But to apply it to nullification, properly understood, the object of which, instead of resisting or diminishing the powers of the Union, is to preserve them as they are, neither increased nor diminished, and thereby the Union itself (for the Union may be as effectually destroyed by increasing as by diminishing its powers—by consolidation, as by disunion itself), would be, I would say,—had I not great respect for many who do thus apply it,—egregious trifling with a grave and deeply-important constitutional subject.

I might here finish the task which your request imposed, —having, I trust, demonstrated, beyond the power of refutation, that a State has the right to defend her reserved powers against the encroachments of the General Government; and I may add that the right is, in its nature, peaceable, consistent with the federal relations of the State, and perfectly efficient, whether contested before the Courts, or attempted to be resisted by force. But there is another aspect of the subject not yet touched, without adverting to which, it is impossible to understand the full effects of nullification, or the real character of our political institutions: I allude to the power which the States, as a confederated body, have acquired directly over each other, and on which I will now proceed to make some remarks, though, I fear, at the hazard of fatiguing you.

Previous to the adoption of the present Constitution, no power could be exercised over any State by any other, or all of the States, without its own consent; and we accordingly find that the old Confederation and the present Constitution were both submitted for ratification to each of the States, and that each ratified for itself, and was bound only in consequence of its own particular ratification, as has been already stated. The present Constitution has made, in this particular, a most important modification in their condition. I allude to the provision which gives validity to amendments of the Constitution when ratified by three fourths of the States

—a provision which has not attracted as much attention as its importance deserves. Without it, no change could have been made in the Constitution, unless with the unanimous consent of all the States, in like manner as it was adopted. This provision, then, contains a highly-important concession by each to all of the States, of a portion of the original and inherent right of self-government, possessed previously by each separately, in favor of their general confederated powers,—giving thereby increased energy to the States in their united capacity, and weakening them in the same degree in their separate. Its object was to facilitate and strengthen the action of the amending, or (to speak a little more appropriately, as it regards the point under consideration) *the repairing power*. It was foreseen that experience would, probably, disclose errors in the Constitution itself; that time would make great changes in the condition of the country, which would require corresponding changes in the Constitution; that the irregular and conflicting movements of the bodies composing so complex a system might cause derangements requiring correction; and that, to require the unanimous consent of all the States to meet these various contingencies, would be placing the whole too much under the control of the parts: to remedy which, this great additional power was given to the amending or repairing power—this *vis medicatrix* of the system.

To understand correctly the nature of this concession, we must not confound it with the delegated powers conferred on the General Government, and to be exercised by it as the joint agent of the States. They are essentially different. The former is, in fact, but a modification of the original sovereign power residing in the people of the several States—of *the creating or constitution-making power itself, intended, as stated, to facilitate and strengthen its action, and not change its character. Though modified, it is not delegated. It still*

resides in the States, and is still to be exercised by them, and not by the Government.

I propose next to consider this important modification of the sovereign powers of the States, in connection with the right of nullification.

It is acknowledged on all sides that the duration and stability of our system depend on maintaining *the equilibrium* between the States and the General Government—the reserved and delegated powers. We know that the Convention which formed the Constitution, and the various State conventions which adopted it, as far as we are informed of their proceedings, felt the deepest solicitude on this point. They saw and felt there would be an incessant conflict between them, which would menace the existence of the system itself, unless properly guarded. The contest between the States and General Government—the reserved and delegated rights —will, in truth, be a conflict between the great predominant interests of the Union on one side,—controlling and directing the movements of the Government, and seeking to enlarge the delegated powers, and thereby advance their influence and prosperity ; and, on the other, the minor interests rallying on the reserved powers, as the only means of protecting themselves against the encroachment and oppression of the other. In such a contest, without the most effectual check, the stronger will absorb the weaker interest ; while, on the other hand, without an adequate provision of some description or other, the efforts of the weaker to guard against the encroachments and oppression of the stronger might permanently derange the system.

On the side of the reserved powers, no check more effectual can be found or desired than nullification, or the right of arresting, within the limits of a State, the exercise, by the General Government, of any powers but the delegated—a right which, if the States be true to themselves and faithful

to the Constitution, will ever prove, on the side of the reserved powers, an effectual protection to both.

Nor is the check on the side of the delegated less perfect. Though less strong, it is ample to guard against encroachments; and is as strong as the nature of the system would bear, as will appear in the sequel. It is to be found in the amending power. Without the modification which it contains of the rights of self-government on the part of the States, as already explained, the consent of each State would have been requisite to any additional grant of power, or other amendment of the Constitution. While, then, nullification would enable a State to arrest the exercise of a power not delegated, the right of self-government, if unmodified, would enable her to prevent the grant of a power not delegated; and thus her conception of what power ought to be granted would be as conclusive against the co-States, as her construction of the powers granted is against the General Government. In that case, the danger would be on the side of the States or reserved powers. The amending power, *in effect*, prevents this danger. In virtue of the provisions which it contains, the resistance of a State to a power cannot finally prevail, unless she be sustained by one fourth of the co-States; and in the same degree that her resistance is weakened, the power of the General Government, or the side of the delegated powers, is *strengthened*. It is true that the right of a State to arrest an unconstitutional act is of itself complete against the Government; but it is equally so that the controversy may, *in effect*, be terminated against her by a grant of the contested powers by three fourths of the States. It is thus by this simple, and apparently incidental contrivance, that the right of a State to nullify an unconstitutional act, so essential to the protection of the reserved rights, but which, unchecked, might too much debilitate the Government, is counterpoised: not by weakening the energy of a State in her direct resistance to the encroachment of the Government,

or by giving to the latter a direct control over the States, as proposed in the Convention, but in a manner infinitely more safe, and, if I may be permitted so to express myself, scientific, by strengthening the amending or repairing power—the power of correcting all abuses or derangements, by whatever cause, or from whatever quarter.

To sum all in a few words. The General Government has the right, in the first instance, of construing its own powers, which, if final and conclusive, as is supposed by many, would have placed the reserved powers at the mercy of the delegated, and thus destroy the equilibrium of the system. Against this, a State has the right of nullification. This right, on the part of the State, if not counterpoised, might tend too strongly to weaken the General Government and derange the system. To correct this, the amending or repairing power is strengthened. The former cannot be made too strong if the latter be proportionably so. The increase of the latter is, in effect, the decrease of the former. Give to a majority of the States the right of amendment, and the arresting power, on the part of the State, would, in fact, be annulled. The amending power and the powers of the Government would, in that case, be, in reality, in the same hands. The same majority that controlled the one would the other,—and the power arrested, as not granted, would be immediately restored in the shape of a grant. This modification of the right of self-government, on the part of the States, is, in fact, the pivot of the system. By shifting its position as the preponderance is on the one side or the other, or, to drop the simile, by increasing or diminishing the energy of the repairing power, effected by diminishing or increasing the number of States necessary to amend the Constitution, the equilibrium between the reserved and the delegated rights may be preserved or destroyed at pleasure.

I am aware it is objected that, according to this view, one fourth of the States may, in reality, change the Con-

stitution, and thus take away powers which have been unanimously granted by all the States. The objection is more specious than solid. The *right* of a State is not to *resume* delegated powers, but *to prevent* the reserved from being *assumed* by the Government. It is, however, certain the right may be abused, and, thereby, powers be resumed which were, in fact, delegated; and it is also true, if sustained by one fourth of the co-States, such resumption may be successfully and permanently made by the State. This is the danger, and the utmost extent of the danger from the side of the reserved powers. It would, I acknowledge, be desirable to avoid or lessen it; but neither can be effected without increasing a greater and opposing danger.

If the right be denied to the State to defend her reserved powers, for fear she might resume the delegated, that denial would, in effect, yield to the General Government the power, under the color of construction, to assume at pleasure all the reserved powers. It is, in fact, a question between the danger of the States resuming the delegated powers on one side, and the General Government assuming the reserved on the other. Passing over the far greater probability of the latter than the former, which I endeavored to illustrate in the address of last summer, I shall confine my remarks to the striking difference between them, viewed in connection with the genius and theory of our Government.

The right of a State originally to complete self-government is a fundamental principle in our system, in virtue of which *the grant of power required the consent of all the States, while to withhold power the dissent of a single State was sufficient.* It is true, that this original and absolute power of self-government has been modified by the Constitution, as already stated, so that three fourths of the States may now grant power; and, consequently, it requires more than one fourth to withhold. The boundary be-

tween the reserved and the delegated powers marks the limits of the Union. The States are united to the extent of the latter, and separated beyond that limit. It is then clear that it was not intended that the States should be more united than the will of one fourth of them, or, rather, one more than a fourth, would permit. It is worthy of remark, that it was proposed in the Convention to increase the confederative power, as it may be called, by vesting two thirds of the States with the right of amendment, so as to require more than a third, instead of a fourth, to withhold power. The proposition was rejected, and three fourths unanimously adopted. It is, then, *more hostile to the nature and genius of our system to assume powers not delegated, than to resume those that are; and less hostile that a State, sustained by one fourth of her co-States, should prevent the exercise of power really intended to be granted, than that the General Government should assume the exercise of powers not intended to be delegated.* In the latter case, the usurpation of power would be against the fundamental principle of our system—the original right of the States to self-government; while in the former, if it be usurpation at all, it would be, if so bold an expression may be used, a usurpation in the spirit of the Constitution itself —the spirit ordaining that the utmost extent of our Union should be limited by the will of any number of States exceeding a fourth, and that most wisely. In a country having so great a diversity of geographical and political interest, with so vast a territory, to be filled, in a short time, with almost countless millions—a country of which the parts will equal empires—a union more intimate than that ordained in the Constitution, and so intimate, of course, that it might be permanently hostile to the feelings of more than a fourth of the States, instead of strengthening, would have exposed the system to certain destruction. There is a deep and profound philosophy—which he who best knows

our nature will the most highly appreciate—that would make the intensity of the Union, if I may so express myself, inversely to the extent of territory and the population of a country, and the diversity of its interests, geographical and political—and would hold in deeper dread the assumption of reserved rights by the agent appointed to execute the delegated, than the resumption of the delegated by the authority which granted the powers and ordained the agent to administer them. There appears, indeed, to be a great and prevailing principle that tends to place the delegated power in opposition to the delegating—the created to the creating power—reaching far beyond man and his works, up to the universal source of all power. The earliest pages of Sacred History record the rebellion of the archangels against the high authority of Heaven itself—and in ancient mythology, the war of the Titans against Jupiter, which, according to its narrative, menaced the universe with destruction. This all-pervading principle is at work in our system—the created warring against the creating power; and unless the Government be bolted and chained down with links of adamant by the hand of the States which created it, the creature will usurp the place of the creator, and universal political idolatry overspread the land.

If the views presented be correct, it follows that, on the interposition of a State in favor of the reserved rights, it would be the duty of the General Government to abandon the contested power, or to apply to the States themselves, the source of all political authority, for the power, in one of the two modes prescribed in the Constitution. If the case be a simple one, embracing a single power, and that in its nature easily adjusted, the more ready and appropriate mode would be an amendment in the ordinary form, on a proposition of two thirds of both Houses of Congress, to be ratified by three fourths of the States; but, on the contrary, should the derangement of the system be great, embracing many

points difficult to adjust, the States ought to be convened in a general Convention—the most august of all assemblies—representing the united sovereignty of the confederated States, and having power and authority to correct every error, and to repair every dilapidation or injury, whether caused by time or accident, or the conflicting movements of the bodies which compose the system. With institutions every way so fortunate, possessed of means so well calculated to prevent disorders, and so admirable to correct them when they cannot be prevented, *he* who would prescribe for our political disease *disunion* on the one side, or *coercion* of *a State* in the assertion of its rights on the other, *would deserve*, and *will receive, the execrations of this and all future generations.*

I have now finished what I had to say on the subject of this communication, in its immediate connection with the Constitution. In the discussion, I have advanced nothing but on the authority of the Constitution itself, or that of recorded and unquestionable facts connected with the history of its origin and formation; and have made no deduction but such as rested on principles which I believe to be unquestionable; but it would be idle to expect, in the present state of the public mind, a favorable reception of the conclusions to which I have been carried. There are too many misconceptions to encounter—too many prejudices to combat—and, above all, too great a weight of interest to resist. I do not propose to investigate these great impediments to the reception of the truth, though it would be an interesting subject of inquiry to trace them to their cause, and to measure the force of their impeding power; but there is one among them of so marked a character, and which operates so extensively, that I cannot conclude without making it the subject of a few remarks, particularly as they will be calculated to throw much light on what has already been said.

Of all the impediments opposed to a just conception of the nature of our political system, the impression that the right of a State to arrest an unconstitutional act of the General Government is inconsistent with the great and fundamental principle of all free states—that a majority has the right to govern—is the greatest. Thus regarded, nullification is, without farther reflection, denounced as the most dangerous and monstrous of all political heresies, as, in truth, it would be, were the objection as well-founded as, in fact, it is destitute of all foundation, as I shall now proceed to show.

Those who make the objection seem to suppose that the right of a majority to govern is a principle too simple to admit of any distinction; and yet, if I do not mistake, it is susceptible of the most important distinction—entering deeply into the construction of our system, and, I may add, into that of all free States in proportion to the perfection of their institutions—and is essential to the very existence of liberty.

When, then, it is said that a majority has the right to govern, there are two modes of estimating the majority, to either of which the expression is applicable. The one, in which the whole community is regarded in the aggregate, and the majority is estimated in reference to the entire mass. This may be called the majority of the whole, or the absolute majority. The other, in which it is regarded in reference to its different political interests, whether composed of different classes, of different communities, formed into one general confederated community, and in which the majority is estimated, not in reference to the whole, but to each class or community of which it is composed,—the assent of each taken separately,—and the concurrence of all constituting the majority. A majority thus estimated may be called the concurring majority.

When it is objected to nullification, that it is opposed

to the principle that a majority ought to govern, he who makes the objection must mean the absolute, as distinguished from the concurring. It is only in the sense of the former the objection can be applied. In that of the concurring, it would be absurd, as the concurring assent of all the parts (with us, all the States) is of the very essence of such majority. Again, it is manifest, that in the sense in which it would be good against nullification, it would be equally so against the Constitution itself; for, in whatever light that instrument may be regarded, it is clearly not the work of the absolute, but of the concurring majority. It was formed and ratified by the concurring assent of all the States, and not by the majority of the whole taken in the aggregate, as has been already stated. Thus, the acknowledged right of each State, *in reference to the Constitution*, is unquestionably the same right which nullification attributes to each *in reference to the unconstitutional acts of the Government;* and, if the latter be opposed to the right of a majority to govern, the former is equally so. I go farther. The objection might, with equal truth, be applied to all free States that have ever existed: I mean States deserving the name,—excluding, of course, those which, after a factious and anarchical existence of a few years, have sunk under the yoke of tyranny or the dominion of some foreign power. There is not, with this exception, a single free State whose institutions were not based on the principle of the concurring majority: not one in which the community was not regarded in reference to its different political interests, and which did not, in some form or other, take the assent of each in the operation of the Government.

In support of this assertion, I might begin with our own Government and go back to that of Sparta, and show conclusively that there is not one on the list whose institutions were not organized on the principle of the concurring majority, and in the operation of which the sense of each great

interest was not separately consulted. The various devices which have been contrived for this purpose, with the peculiar operation of each, would be a curious and highly important subject of investigation. I can only allude to some of the most prominent.

The principle of the concurring majority has sometimes been incorporated in the regular and ordinary operation of the Government—each interest having a distinct organization—and a combination of the whole forming the Government; but still requiring the consent of each, within its proper sphere, to give validity to the measures of Government. Of this modification the British and Spartan Governments are by far the most memorable and perfect examples. In others, the right of acting—of making and executing the laws—was vested in one interest, and the right of arresting or nullifying in another. Of this description, the Roman Government is much the most striking instance. In others, the right of originating or introducing projects of laws was in one, and of enacting them in another: as at Athens before its Government degenerated—where the Senate proposed, and the General Assembly of the people enacted, laws.

These devices were all resorted to with the intention of consulting the separate interests of which the several communities were composed, and against all of which the objection to nullification, that it is opposed to the will of a majority, could be raised with equal force—as strongly, and I may say much more so, against the unlimited, unqualified, and uncontrollable veto of a single tribune out of ten at Rome on all laws and the execution of laws, as against the same right of a sovereign State (one of the twenty-four tribunes of this Union), limited, as the right is, to the unconstitutional acts of the General Government, and liable, as in effect it is, to be controlled by three fourths of the co-States; and yet the Roman Republic, and the other States to which I have referred, are the renowned among free States, whose

examples have diffused the spirit of liberty over the world, and which, if struck from the list, would leave behind but little to be admired or imitated. There, indeed, would remain one class deserving from us particular notice, as ours belongs to it—I mean confederacies; but, as a class, heretofore far less distinguished for power and prosperity than those already alluded to; though I trust, with the improvements we have made, destined to be placed at the very head of the illustrious list of States which have blessed the world with examples of well-regulated liberty; and which stand as so many oases in the midst of the desert of oppression and despotism, which occupies so vast a space in the chart of governments. That such will be the great and glorious destiny of our system, I feel assured, provided we do not permit our Government to degenerate into the worst of all possible forms—a consolidated Government—swayed by the will of an absolute majority. But to proceed.

Viewing a confederated community as composed of as many distinct political interests as there are States, and as requiring the consent of each to its measures, no government can be conceived in which the sense of the whole community can be more perfectly taken, and all its interests be more fully represented and protected. But, with this great advantage—united with the means of the most just and perfect local administration through the agency of the States, and combined with the capacity of embracing within its limits the greatest extent of territory and variety of interests—it is liable to one almost fatal objection, the tardiness and feebleness of its movements—a defect difficult to be remedied, and when not, so great as to render a form of government—in other respects so admirable—almost worthless. To overcome this difficulty was the great desideratum in political science, and the most difficult problem within its circle. To us belongs the glory of its solution, if, indeed, our experiment (for such it must yet be called) shall prove

that we have overcome it, as I sincerely believe and hope it will, on account of our own, as well as the liberty and happiness of our race.

Our first experiment in government was on the old form of a simple confederacy—unmodified, and extending the principle of the concurring majority alike to the Constitution (the articles of union) and to the Government which it constituted. It failed—and the present structure was reared in its place, combining, for the first time in a confederation, the absolute with the concurring majority; and thus uniting the justice of the one with the energy of the other.

The new Government was reared on the foundation of the old, strengthened, but not changed. It stands on the same solid basis of the concurring majority, perfected by the sanction of the people of the States directly given, and not indirectly through the State governments, as their representatives, as in the old confederation. With this difference, the authority which made the two Constitutions—which granted their powers, and ordained and organized their respective Governments to execute them—is the same. But, in passing from the Constitution to the Government (the law-making and the law-administering powers), the difference between the two becomes radical and essential. There, in the present, the concurring majority is dropped, and the absolute substituted. In determining, then, what powers ought to be granted, and how the Government appointed for their execution ought to be organized, the separate and concurring voice of the States was required—the union being regarded, for this purpose, in reference to its various and distinct interests; but in the execution of these powers (delegated only because all the States had a common interest in their exercise), the Union is no longer regarded in reference to its parts, but as forming, to the extent of its delegated powers, one great community—to be governed by a common will—just as the States are in reference to their

separate interests, and by a Government organized on principles similar to theirs. By this simple but fortunate arrangement, we have ingrafted the absolute on the concurring majority, thereby giving to the administration of the powers of the Government, where they were required, all the energy and promptness belonging to the former—while we have retained in the power granting and organizing authority (if I may so express myself), the principle of the concurring majority, and with it that justice, moderation, and full and perfect representation of all the interests of the community which belong exclusively to it.

Such is the solidity and beauty of our admirable system —but which, it is perfectly obvious, can only be preserved by maintaining the ascendency of the CONSTITUTION-MAKING AUTHORITY OVER THE LAW-MAKING—THE CONCURRING OVER THE ABSOLUTE MAJORITY. Nor is it less clear that this can only be effected by the right of a State to annul the unconstitutional acts of the Government—a right confounded with the idea of a minority governing a majority, but which, so far from being the case, is indispensable to prevent the more energetic but imperfect majority which controls the movements of the Government from usurping the place of that more perfect and just majority which formed the Constitution and ordained government to execute its powers.

Nor need we apprehend that this check, as powerful as it is, will prove excessive. The distinction between the constitution and the law making powers, so strongly marked in our institutions, may yet be considered as a new and untried experiment. It can scarcely be said to have existed at all before our system of government. We have yet much to learn as to its practical operation; and, among other things, if I do not mistake, we are far from realizing the many and great difficulties of holding the latter subordinate to the former, and without which, it is obvious, the entire scheme of constitutional government, at least in our sense, must prove

abortive. Short as has been our experience, some of these, of a very formidable character, have begun to disclose themselves, particularly between the Constitution and the Government of the Union. The two powers there represent very different interests: the one, that of all the States taken separately; and the other, that of a majority of the States as forming a confederated community. Each acting under the impulse of these respective and very different interests, must necessarily strongly tend to come into collision, and, in the conflict, the advantage will be found almost exclusively on the side of the Government or law-making power. A few remarks will be sufficient to illustrate these positions.

The Constitution, while it grants powers to the Government, at the same time imposes restrictions on its action, with the intention of confining it within a limited range of powers, and of the means of executing them. The object of the powers is to protect the rights and promote the interests of all; and of the restrictions, to prevent the majority, or the dominant interests of the Government, from perverting powers intended for the common good into the means of oppressing the minor interests of the community. Thus circumstanced, the dominant interest in possession of the powers of the Government, and the minor interest on whom they are exercised, must regard these restrictions in a very different light; the latter as a protection, and the former as a restraint—and of course, accompanied with all the impatient feelings with which restrictions on cupidity and ambition are ever regarded by those unruly passions. Under their influence, the Constitution will be viewed by the majority, not as the source of their authority, as it should be, but as shackles on their power. To them it will have no value as the means of protection. As a majority they require none. Their number and strength, and not the Constitution, are their protection; and, of course, if I may so speak, their instinct will be to weaken and destroy the re-

strictions, in order to enlarge the powers. He must have a very imperfect knowledge of the human heart who does not see, in this state of things, an incessant conflict between the Government or the law-making power and the constitution-making power. Nor is it less certain that, in the contest, the advantage will be exclusively with the former.

The law-making power is organized and in constant action,—having the control of the honors and emoluments of the country, and armed with the power to punish and reward: the other, on the contrary, is unorganized, lying dormant in the great inert mass of the community, till called into action on extraordinary occasions and at distant intervals; and then bestowing no honors, exercising no patronage, having neither the faculty to reward nor to punish, but endowed simply with the attribute to grant powers and ordain the authority to execute them. The result is inevitable. With so strong an instinct on the part of the Government to throw off the restrictions of the Constitution and to enlarge its powers, and with such powerful faculties to gratify this instinctive impulse, the law-making must necessarily encroach on the constitution-making power, unless restrained by the most efficient check—at least as strong as that for which we contend. It is worthy of remark, that, all other circumstances being equal, the more dissimilar the interests represented by the two, the more powerful will be this tendency to encroach; and it is from this, among other causes, that it is so much stronger between the Government and the constitution-making powers of the Union, where the interests are so very dissimilar, than between the two in the several States.

That the framers of the Constitution were aware of the danger which I have described, we have conclusive proof in the provision to which I have so frequently alluded—I mean that which provides for amendments to the Constitution.

I have already remarked on that portion of this provision which, with the view of strengthening the confederated power,

conceded to three fourths of the States a right to amend, which otherwise could only have been exercised by the unanimous consent of all. It is remarkable, that, while this provision thus strengthened the amending power as it regards the States, it imposed impediments on it as far as the Government was concerned. The power of acting, as a general rule, is invested in the majority of Congress; but, instead of permitting a majority to propose amendments, the provision requires for that purpose two thirds of both Houses—clearly with a view of interposing a barrier against this strong instinctive appetite of the Government for the acquisition of power. But it would have been folly in the extreme thus carefully to guard the passage to the direct acquisition, had the wide door of construction been left open to its indirect; and hence, in the same spirit in which two thirds of both Houses were required to propose amendments, the Convention that framed the Constitution rejected the many propositions which were moved in the body with the intention of divesting the States of the right of interposing, and, thereby, of the only effectual means of preventing the enlargement of the powers of the Government by construction.

It is thus that the constitution-making power has fortified itself against the law-making,—and so effectually, that, however strong the disposition and capacity of the latter to encroach, the means of resistance on the part of the former are not less powerful. If, indeed, encroachments have been made, the fault is not in the system, but in the inattention and neglect of those whose interest and duty it was to interpose the ample means of protection afforded by the Constitution.

To sum up in few words, in conclusion, what appears to me to be the entire philosophy of government, in reference to the subject of this communication.

Two powers are necessary to the existence and preservation of free States: a power on the part of the ruled to pre-

vent rulers from abusing their authority, by compelling them to be faithful to their constituents, and which is effected through the right of suffrage; and a power TO COMPEL THE PARTS OF SOCIETY TO BE JUST TO ONE ANOTHER, BY COMPELLING THEM TO CONSULT THE INTEREST OF EACH OTHER—which can only be effected, whatever may be the device for the purpose, by requiring the concurring assent of all the great and distinct interests of the community to the measures of the Government. This result is the sum-total of all the contrivances adopted by free States to preserve their liberty, by preventing the conflicts between the several classes or parts of the community. Both powers are indispensable. The one as much so as the other. The rulers are not more disposed to encroach on the ruled than the different interests of the community on one another; nor would they more certainly convert their power from the just and legitimate objects for which governments are instituted into an instrument of aggrandizement, at the expense of the ruled,—unless made responsible to their constituents,—than would the stronger interests theirs, at the expense of the weaker, unless compelled to consult them in the measures of the Government by taking their separate and concurring assent. The same cause operates in both cases. The constitution of our nature, which would impel the rulers to oppress the ruled, unless prevented, would in like manner, and with equal force, impel the stronger to oppress the weaker interest. To vest the right of government in the absolute majority, would be, in fact—BUT TO EMBODY THE WILL OF THE STRONGER INTEREST IN THE OPERATIONS OF THE GOVERNMENT AND NOT THE WILL OF THE WHOLE COMMUNITY—AND TO LEAVE THE OTHERS UNPROTECTED, A PREY TO ITS AMBITION AND CUPIDITY—just as would be the case between rulers and ruled, if the right to govern was vested exclusively in the hands of the former. They would both be, in reality, absolute and despotic governments: the one as much so as the other.

They would both become mere instruments of cupidity and ambition in the hands of those who wielded them. No one doubts that such would be the case were the government placed under the control of irresponsible rulers, but, unfortunately for the cause of liberty, it is not seen with equal clearness that it must as necessarily be so when controlled by an absolute majority ; and yet, the former is not more certain than the latter. To this we may attribute the mistake so often and so fatally repeated, that TO EXPEL A DESPOT IS TO ESTABLISH LIBERTY—a mistake to which we may trace the failure of many noble and generous efforts in favor of liberty. The error consists in considering communities as formed of interests strictly identical throughout, instead of being composed, as they in reality are, of as many distinct interests as there are individuals. The interests of no two persons are the same, regarded in reference to each other, though they may be, viewed in relation to the rest of the community. It is this diversity which the several portions of the community bear to each other, in reference to the whole, that renders the principle of the concurring majority necessary to preserve liberty. Place the power in the hands of the absolute majority, and the strongest of these would certainly pervert the government from the object for which it was instituted—the equal protection of the rights of all —into an instrument of advancing itself at the expense of the rest of the community. Against this abuse of power no remedy can be devised but that of the concurring majority. Neither the right of suffrage nor public opinion can possibly check it. They, in fact, but tend to aggravate the disease. It seems really surprising that truths so obvious should be so imperfectly understood. There would appear, indeed, a feebleness in our intellectual powers on political subjects when directed to large masses. We readily see why a single individual, as a ruler, would, if not prevented, oppress the rest of the community ; but are at a loss to understand why

seven millions would, if not also prevented, oppress six millions, as if the relative numbers on either side could in the least degree vary the principle.

In stating what I have, I have but repeated the experience of ages, comprehending all free governments preceding ours, and ours as far as it has progressed. The PRACTICAL operation of ours has been substantially on the principle of *the absolute* majority. We have acted, with some exceptions, as if the General Government had the right to interpret its own powers, without limitation or check; and though many circumstances have favored us, and greatly impeded the natural progress of events, under such an operation of the system, yet we already see, in whatever direction we turn our eyes, the growing symptoms of disorder and decay—the growth of faction, cupidity, and corruption; and the decay of patriotism, integrity, and disinterestedness. In the midst of youth, we see the flushed cheek, and the short and feverish breath, that mark the approach of the fatal hour; and come it will, unless there be a speedy and radical change—a return to the great conservative principles which brought the Republican party into authority, but which, with the possession of power and prosperity, it has long ceased to remember.

I have now finished the task which your request imposed. If I have been so fortunate as to add to your fund a single new illustration of this great conservative principle of our Government, or to furnish an additional argument calculated to sustain the State in her noble and patriotic struggle to revive and maintain it, and in which you have acted a part long to be remembered by the friends of freedom, I shall feel amply compensated for the time occupied in so long a communication. I believe the cause to be the cause of truth and justice, of union, liberty, and the Constitution, before which the ordinary party struggles of the day sink into perfect insignificance; and that it will be so re-

garded by the most distant posterity, I have not the slightest doubt.

With great and sincere regard,
I am yours, &c., &c.,
JOHN C. CALHOUN.

His Excellency JAMES HAMILTON, Jr., Governor of South Carolina.

ADDRESS

To the People of the United States. Prepared for the Convention of the People of South Carolina, November, 1832.

To the People of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Georgia, Kentucky, Tennessee, Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama and Missouri:

We, the people of South Carolina assembled in Convention in our sovereign capacity, as one of the parties to the compact, which formed the Constitution of the United States, have declared the act of Congress, approved the 14th of July, 1832, to alter and amend the several acts imposing duties on imports, and the acts, which it alters and amends, —to be unconstitutional, and therefore null and void; and have invested the Legislature of the State with power to adopt such measures, not repugnant to the Constitution of the United States, nor of this State,—as it may deem proper, to carry the same into effect. In taking this step, we feel it to be due to the intimate political relations existing

between the States of the Union, to make known to them, distinctly, the principles on which we have acted, with the cause and motive by which we have been influenced ;—to fulfil which is the object of the present communication.

For this purpose, it will be necessary to state, summarily, what we conceive to be the nature and character of the Constitution of the United States, with the rights and duties of the States,—so far as they relate to the subject,—in reference both to the Union and to their own citizens ;—and also the character and effect, in a political point of view, of the system of protective duties, contained in the acts which we have declared to be unconstitutional, as far as it may be necessary, in reference to the same subject.

We, then, hold it as unquestionable, that, on the separation from the Crown of Great Britain, the people of the several colonies became free and independent States, possessed of the full right of self-government ;—and that no power can be rightfully exercised over them, but by the consent and authority of their respective States, expressed or implied. We also hold it as equally unquestionable, that the Constitution of the United States is a compact between the people of the several States, constituting free, independent, and sovereign communities ;—that the Government it created was formed and appointed to execute, according to the provisions of the instrument, the powers therein granted, as the joint agent of the several States ; that all its acts, transcending these powers, are simply and of themselves, null and void, and that in case of such infractions, it is the right of the States, in their sovereign capacity, each acting for itself and its citizens, in like manner as they adopted the Constitution, to judge thereof in the last resort, and to adopt such measures—not inconsistent with the compact—as may be deemed fit, to arrest the execution of the act within their respective limits. Such we hold to be the right of the States, in reference to an unconstitutional act of the

Government; nor do we deem their duty to exercise it on proper occasions, less certain and imperative, than the right itself is clear.

We hold it to be a very imperfect conception of the obligation, which each State contracted in ratifying the Constitution, and thereby becoming a member of the Union, to suppose that it would be fully and faithfully discharged, simply by abstaining, on its part, from exercising the powers delegated to the Government of the Union, or by sustaining it in the due execution of those powers. These are, undoubtedly, important federal duties, but there is another not less important,—to resist the Government, should it, under color of exercising the delegated, encroach on the reserved powers. The duty of the States is no less clear in the one case than in the other; and the obligation as binding in the one as in the other; and in like manner, the solemn obligation of an oath, imposed by the States through the Constitution, on all public functionaries, federal and State, to support that instrument, comprehends the one as well as the other duty;—as well that of maintaining the Government in the due exercise of its powers, as that of resisting it when it transcends them.

But the obligation of a State to resist the encroachments of the Government on the reserved powers, is not limited simply to the discharge of its federal duties. We hold that it embraces another, if possible, more sacred;—that of protecting its citizens, derived from their original sovereign character, viewed in their separate relations. There are none of the duties of a State of higher obligation. It is, indeed, the primitive duty,—preceding all others, and in its nature paramount to them all; and so essential to the existence of a State, that she cannot neglect or abandon it, without forfeiting all just claims to the allegiance of her citizens, and with it, her sovereignty itself. In entering into the Union, the States by no means exempted themselves

from the obligation of this, the first and most sacred of their duties; nor, indeed, can they without sinking into subordinate and dependent corporations. It is true, that in ratifying the Constitution, they placed a large and important portion of the rights of their citizens, under the joint protection of all the States, with a view to their more effectual security; but it is not less so, that they reserved, at the same time, a portion still larger, and not less important, under their own immediate guardianship; and in relation to which, the original obligation, to protect the rights of their citizens, from whatever quarter assailed, remained unchanged and unimpaired. Nor is it less true, that the General Government, created in order to preserve the rights placed under the joint protection of the States, and which, when restricted to its proper sphere, is calculated to afford them the most perfect security, may become, when not so restricted, the most dangerous enemy to the rights of their citizens, including those reserved under the immediate guardianship of the States respectively, as well as those under their joint protection; and thus, the original and inherent obligation of the States to protect their citizens, is united with that which they have contracted to support the Constitution; thereby rendering it the most sacred of all their duties to watch over and resist the encroachments of the Government; —and on the faithful performance of which, we solemnly believe the duration of the Constitution and the liberty and happiness of the country depend.

But, while we hold the rights and duties of the States to be such as we have stated, we are deeply impressed with the conviction, that it is due to the relation existing between them, as members of a common Union, and the respect which they ought ever to entertain towards the Government ordained to carry into effect the important objects for which the Constitution was formed, that the occasion to justify a State in interposing its authority, ought to be one of neces-

sity ; where all other peaceful remedies have been unsuccessfully tried ; and where the only alternative is, interposition on one side, or oppression of its citizens, and imminent danger to the Constitution and liberty of the country on the other ; and such we hold to be the present.

That the prohibitory, or protective system, which, as has been stated, is embraced in the acts which we have declared to be unconstitutional, and therefore null and void, is, in fact, unconstitutional, unequal, and oppressive in its operation on this, and the other staple and exporting States, and dangerous to the Constitution and liberty of the country,—and that (all other peaceful remedies having been tried without success) an occasion has occurred, where it becomes the right and duty of the State to interpose its authority to arrest the evil within its limits, we hold to be certain ; and it is under this deep and solemn conviction, that we have acted.

For more than ten years, the system has been the object of continued, united, and strenuous opposition on the part both of the Government of the State and its representatives in Congress ; and, we may add, of the other staple and exporting States. During this long period, all the ordinary means of opposition—discussion, resolution, petition, remonstrance, and protest—have been tried and exhausted, without effect. We have, during the whole time, waited with patience under the unequal and oppressive action of the system, hoping that the final payment of the public debt, when there would be no longer a pretext for its continuance, would bring it to a termination. That period, for all practical purposes, is now passed. The small remnant of debt which now remains, is amply provided for by the revenue already accrued ; but the system remains in full force ;—its restrictive character established and openly avowed ; the inequality of its action, between this and other sections, greatly increased ; and the amount of its exertions

vastly exceeding,—probably doubling, the just and constitutional wants of the Government. The event, which, it was hoped, would put an end to its duration, has thus but served to give it increased strength; and, instead of mitigating, has aggravated its most obnoxious features. Having stood this shock, it seems almost impossible that any other within the ordinary scope of events, can shake it. It now stands for the first time, exclusively on its own basis, as an independent system; having a self-existing power, with an unlimited capacity of increasing,—which, left unopposed, must continue to expand, till it controls the entire labor and capital of the staple and exporting States;—subjecting them completely, as tributaries, to the great dominant and sectional interest, which has grown up at their expense. With this prospect of the indefinite extent and duration of the system, we had thus presented the alternative of silently acquiescing in its oppression and danger, or of interposing, as the last peaceful measure of redress, the authority of the State to arrest the evil within its limits. We did not hesitate.

When we reflect on the principle on which the system rests, and from which the Government claims the power to control the labor and capital of the country, and the bitter fruits it has already produced,—the decay and impoverishment of an entire section of the country;—and the wide spread of discord and corruption,—we cannot doubt, that there is involved in the issue, not only the prosperity of this and the other staple and exporting States, but also the Constitution and liberty of the country. In rearing up the system it was not pretended, nor is it now, that there is in the Constitution any positive grant of power to protect manufactures; nor can it be denied that frequent attempts were made in the Convention to obtain the power, and that they all failed: and yet, without any grant, and notwithstanding the failure to obtain one, it has become one of the leading powers of the Government,—influencing more ex-

tensively its movements, and affecting more deeply and permanently the relative interests and condition of the States, and the probable fate of the Government itself, than any, or all of the enumerated powers united.

From whatever source its advocates may derive this power,—whether from the right, "to lay and collect taxes, duties, imposts, and excises," or from that, "to regulate commerce," it plainly rests on the broad assumption, that the power to impose duties may be applied, not only to effect the original objects,—to raise revenue, or regulate commerce, but also to protect manufactures; and this, not as an incidental, but as a substantive and independent power, —without reference to revenue or commerce; and, in this character, it has been used in building up the present system.

That such a power, resting on such a principle, is unauthorized by the Constitution;—that it has become an instrument in the hands of the great dominant interests of the country, to oppress the weaker;—that it must, ultimately, concentrate the whole power of the community in the General Government, and abolish the sovereignty of the States;—and that discord, corruption, and, eventually, despotism must follow, if the system be not resisted,—we hold to be certain. Already we see the commencement of this disastrous train of consequences;—the oppression of the weaker;—the assumption by Government of the right to determine, finally and conclusively, the extent of its own powers;—the denial and denunciation of the right of the States to judge of their reserved powers, and to defend them against the encroachments of the Government;—followed by discord, corruption, and the steady advance of despotic power.

That something is wrong, all admit; and that the assumption, by Government, of a power so extensive and dangerous,—and the control which it has thereby acquired.

through its fiscal operations, over the wealth and labor of the country,—exacting, in the shape of high duties, a large portion of the annual income of our section, and bestowing it in the form of monopolies and appropriations on the other, —is the true cause of the existing disorder,—and the only adequate one that can be assigned,—we cannot entertain a doubt. To this unequal and excessive fiscal action of the Government, may be immediately and clearly traced the growing discontent and alienation on the part of the oppressed portion of the community, and the greedy pursuit of office ;—and with it, the increasing spirit of servility subserviency and corruption on the other ;—which all must see and acknowledge, and which every lover of the country, and its institutions must deplore. Nor is it less clear, that this dangerous assumption, by which the reserved powers of the States have been transferred to the General Government, is rapidly concentrating, by a necessary operation, the whole power of the Government, in the hands of the Executive. We must be blind to the lessons of reason and experience not to see, that, the more a government interferes with the labor and wealth of a community,—the more it exacts from one portion, and bestows on another,—just in the same proportion must the power of that department, which is vested with its patronage, be increased. It ought not, then, to be a subject of surprise, that, with this vast increase of the power and revenues of the Federal Government, and its unequal fiscal action, both in the collection and distribution of the latter, the power of the Executive, on whose will the disposition of the patronage of the Government mainly depends, and on which, in turn, depends that powerful, active and mercenary corps of expectants, created by the morbid moneyed action of the Government,—should be, of late, so greatly and dangerously increased. It is indeed not difficult to see that the present state of things, if continued, must end,—and that speedily,—in raising this department

of the Government into an irresponsible and despotic power; with the capacity of perpetuating itself through its own influence;—first, virtually appointing its successor, or, by controlling the Presidential election, through the patronage of the Government; and, finally,—as the virtue and patriotism of the people decay, by the introduction and open establishment of the hereditary principle.

The Federal Government has, indeed, already passed through the first and most difficult part of this process,—which, if permitted to proceed, must terminate, as it ever has, in the absolute and unlimited power of a single despot.

We hold it as certain, that, wherever the majority of a people becomes the advocate of high taxes, and profuse appropriations and expenditures, there the despotic power is already, in fact, established, and liberty virtually lost,—be the form of government what it may; and experience has proved that the transition from this stage to the absolute power of a single individual, is certain and rapid;—and that it can only be arrested by the interposition of some high power out of the ordinary course. Our Government has already clearly reached the first stage; and will inevitably—unless the process be arrested by some such power—speedily terminate its career in the last. In the mean time, while this train of events is consummating itself in the loss of the liberty of all, the oppression and impoverishment of this and the other staple and exporting States will necessarily advance with equal steps. The very root of the system,—that from which it derives its existence and sprouts forth all its evils, is its unjust and unequal action;—giving to one portion what it takes from another,—and thus creating that powerful and irresistible interest in favor of high taxes and profuse expenditures, which are fast sweeping away, at the same time, the foundation of our liberty, and exhausting and reducing to poverty a large portion of the community. That such is, in truth, the real state of things, the extraordinary

spectacle, which our Government now exhibits to the world, affords the most conclusive proof. On what other principle can it be explained, that a popular government, with all the forms of freedom, after having discharged a long standing and heavy public debt, should resist every effort to make a corresponding reduction of the public burden? What other cause can be assigned for a fact so remarkable, as that of a free community refusing to repeal this tax, when the proceeds are, confessedly, no longer wanted,—and when the embarrassment of the Government is,—not to find the revenue, but the objects on which to expend it?

Such is the nature of the disorder which the system has engendered. Of all the diseases which can afflict the body politic, we hold it to be the most inveterate and difficult to remedy. Others, originating in ignorance, delusion, or some sudden popular impulse,—yield to the influence of time and reflection; and we may, accordingly, look in such cases, with confidence, for relief, to the returning good sense and feelings of the community. Not so in this. Having its source in the most powerful passions of the human heart,—the love of gain and power,—neither time, reflection, reason, discussion, entreaty, nor remonstrance can arrest or impede its course: nor, if left to itself, will it stop while there is a cent to be exacted, or a particle of power to be acquired. With us, the disease must assume the most aggravated character. There is no country in which so many and such powerful causes exist to give to the unequal fiscal action of the government, in which it originates, so powerful an impetus, and an operation so oppressive and dangerous. When we reflect on the extent of our country, and the diversity of its interests;—on the peculiar nature of the labor and production of this, and the other suffering States;—with how much facility they may be made subservient to the power and wealth of the other sections,—as experience has shown,—and how deep, radical, and disastrous must be the change in

the social and political condition of this and the other States similarly situated in reference to pursuits and population, when the increasing pressure shall reach the point at which the exactions of the Government shall not leave a sufficient amount of the proceeds of labor to remunerate the expense of maintenance and supervision ;—we cannot but foresee, if the system be not arrested, calamity awaiting us and our posterity, greater than ever befell a free and enlightened people. Already we perceive indications of its approach, that cannot be mistaken. It appears in that quarter, to which, from the nature of the disease, we would naturally look for it ; that quarter where labor is the least productive, and is least capable of bearing the pressure of the system.

Such, we hold to be the general character of the system, viewed in its political connections, and its certain effects, if left to its natural operations ;—to arrest the evils of which, within our limits, we have interposed the authority of the State as the only peaceful remedy that remains of defending the Constitution against its encroachments,—the citizens of the State against its oppression,—and the liberty of the country against its corrupting influence and danger.

In performing this high and sacred duty, our anxious desire has been to embarrass the action of the Government in the smallest degree possible, consistent with the object we have in view ; and had it been possible to separate the portion of duties necessary for revenue, from that imposed for the purpose of protection, the action of the State would have been limited exclusively to the latter. But we could have no right to discriminate when the Government had made no discrimination ; and if we had, it would have been impossible ; as revenue and protection are so blended throughout, —and the duties, as well those included in the act of July last, as those contained in the acts it alters and amends, comprehending the unprotected and the protected articles,—are adjusted so obviously with the design to form

[illegible]

That so desirable an event may be speedily brought about, to the satisfaction of all, is our sincere desire. In taking the stand which she has, the State has been solely influenced by a conscientious sense of duty to her citizens, and to the Constitution, without the slightest feeling of hostility towards the interests of any section of the country, or the remotest *view to revolution*,—*or wish to terminate her connection with the Union*;—*to which she is now, as she ever has been, devotedly attached. Her object is, not to destroy, but to restore and preserve*: and, in asserting her right to defend *her reserved powers, she disclaims all pretension to control or interfere with the action of* the Government within its *proper sphere*,—*or to resume any powers that she has delegated to the Government*, or conceded to the confederated

States. She simply claims the right of exercising the powers which, in adopting the Constitution, she reserved to herself; —and among them,—the most important and essential of all,—the right to judge, in the last resort, of the extent of her reserved powers,—a right never delegated nor surrendered, —nor, indeed, could be, while the State retains her sovereignty. That it has not been, we appeal with confidence to the Constitution itself, which contains not a single grant that, on a fair construction, can be held to comprehend the power. If to this we add the fact, which the Journals of the Convention abundantly establish, that reiterated, but unsuccessful attempts were made, in every stage of its proceedings, to divest the States of the power in question, by conferring on the General Government the right to annul such acts of the States, as it might deem to be repugnant to the Constitution, and the corresponding right to coerce their obedience,— we have the highest proof of which the subject is susceptible, that the power in question was not delegated, but reserved to the States. To suppose that a State, in exercising a power so unquestionable, resists the Union, would be a fundamental and dangerous error,—originating in a radical misconception of the nature of our political institutions. The Government is neither the Union, nor its representative, except as an agent to execute its powers. The States themselves, in their confederated character, represent the authority of the Union; and, acting in the manner prescribed by the Constitution, through the concurring voice of three fourths of their number, have the right to enlarge or diminish, at pleasure, the powers of the Government,—and to amend, alter, or even abolish the Constitution, and, with it, the Government itself. Correctly understood, it is not the State that interposes to arrest an unconstitutional act,—but the Government that passed it, which resists the authority of the Union. The Government has not the right to add a particle to its powers; and to assume, on its part, the ex-

ercise of a power not granted, is plainly to oppose the confederated authority of the States, to which the right of granting powers exclusively belongs ;—and, in so doing, the Union itself, which they represent. On the contrary, a State, as a member of the body in which the authority of the Union resides,—in arresting an unconstitutional act of the Government, within its limits,—so far from opposing, in reality supports the Union, and that in the only effectual mode in which it can be done in such cases. To divest the States of this right, would be, in effect, to give to the Government that authority over the Constitution, which belongs to them exclusively ; and which can only be preserved to them, by leaving to each State,—as the Constitution has done,—to watch over and defend its reserved powers against the encroachments of the Government,—and in performing which, it acts, at the same time, as a faithful and vigilant sentinel over the confederate powers of the States. It was doubtless with these views, that the Convention which framed the Constitution, steadily resisted, as has been observed, the many attempts which were made, under the specious but fallacious argument of preserving the peace and harmony of the Union, to divest the States of this important right,—which is not less essential to the defence of their joint confederate powers, than to the preservation of their separate sovereignty, and the protection of their citizens.

With these views,—views on which the Convention acted in refusing to divest the States of this right,—has this State acted, in asserting it on the present occasion ;—and this with a full understanding of all the responsibilities attached to the position she has assumed, and with a determination as fixed as her conception of her right and duty is clear, to maintain it under every circumstance, and at every hazard. She has weighed all the consequences, and can see, in no possible result, greater disasters than those which must

certainly follow a surrender of the right, and an abandonment of her duty.

Having thus taken, immovably, her stand, there remain,—to bring the controversy to a happy termination, but two possible courses. It may be effected, by the Government ceasing to exercise the unconstitutional power, through which, under the name of duties, it has assumed the control over the labor and wealth of the country, and substituting, for the present high rates, an average ad valorem duty,—or some other system of revenue equally just and fair ;—or by obtaining a positive grant of the power, in the manner prescribed by the Constitution.

But, when we consider the great interests at stake, and the number and magnitude of the questions involved in the issue, directly and indirectly ; and the necessity of a full understanding on all the points, in order to a satisfactory and permanent adjustment of the controversy ; we hold it difficult, if not impracticable, to bring it to a final and satisfactory close, short of convening again, the body, to whose authority and wisdom we are indebted for the Constitution : and under this conviction we have made it the duty of the Legislature of the State to apply, in the manner prescribed by the Constitution, for a general convention of the States, as the most certain, prompt, and effectual, if not the only practicable mode of terminating the conflict, and restoring harmony and confidence to the country. If the other States of the Union be actuated by the same feelings which govern us ;—if their desire to maintain the Constitution,—to preserve the Union,—and to transmit to posterity the blessings of liberty,—be as strong as ours (and we doubt not that it is), this most august of all assemblies,—provided by the Constitution to meet this and similar emergencies,—as a great moral substitute for revolution and force,—may be convened in a few months ; when the present, and every other constitutional question, endangering the peace and harmony of the Union,—may be satisfactorily adjusted.

If there be any conceivable occasion that can justify the call of a Convention of the States, we hold the present to be that occasion; and surely the framers of the Constitution, in providing a mode for calling one, contemplated that great emergencies would arise in the course of events, in which it ought to be convened. They were not so vain as to suppose that their work was so perfect, as to be too clear to admit of diversity of opinion,—or too strong for passion or interest to derange. They accordingly, in their wisdom, provided a double remedy to meet the contingencies, which, if not provided for, might endanger our political system;—one, to meet ordinary and less pressing occurrences,—by vesting in two thirds of Congress the power to propose amendments to the Constitution, to be ratified by three fourths of the States;—the other, for those of a more urgent character, when some deep derangement of the system,—or some great and dangerous conflict of interests or opinion, might threaten, with a catastrophe, the institutions of the country. That such a remedy is provided, is proof of the profound wisdom of the great men who formed our Constitution; and entitles them to the lasting gratitude of the country. But it will be in vain that their wisdom devised a remedy so admirable,—a substitute so infinitely superior to the old and irrational mode of terminating such controversies as are of too high a nature to be adjusted by the force of reason, or through the ordinary tribunals,—if their descendants be so blind as not to perceive its efficacy,—or so intently bent on schemes of ambition and avarice, as to prefer to this constitutional, peaceful, and safe remedy, the wanton, hazardous, and, we may add, immoral arbitrament of force. We hold that our country has arrived at the very point of difficulty and danger, contemplated by the framers of the Constitution, in providing for a General Convention of the States of the Union; and that, of course, the question now remaining to be tested, is,—whether there be sufficient moral elevation, patriotism,

and intelligence in the country, to adjust, through the interposition of this highest of tribunals, whose right none can question, the conflicts which now threaten the very existence of our institutions, and liberty itself,—and which, as experience has proved, there is no other body belonging to the system, having sufficient weight of authority to terminate.

Such, at least, is our conviction; and we have acted accordingly. It now rests with the other States to determine whether a General Convention shall be called or not;—and on that determination hangs, we solemnly believe, the future fate of the country. If it should be in favor of a call, we may, with almost perfect certainty, entertain the prospect of a speedy and happy termination of all our difficulties,—followed by peace, prosperity, and lengthened political existence: but if not, we shall, by rejecting the remedy provided by the wisdom of our ancestors, prove that we deserve the fate, which, in that event, will, in all probability, await the country.

LETTER TO THE HON. WILLIAM SMITH,

On the subject of the Rhode Island Controversy.

FORT HILL, *July 3d*, 1843.

DEAR SIR:—It is necessary, before replying to the several questions on which you ask my views, and the reasons and principles on which I rest them, that I should make a remark explanatory of what I understand to be your desire.

Your questions are all couched in general terms, without reference to any particular case, except the sixth and last, which refers to that of Rhode Island. I understand them all, however, to grow out of it, and to have relation to this

case; and that, the more fully my answers meet and cover it, the more fully will your object, in propounding the questions, be met.

With this understanding, I shall proceed to reply to your inquiries,—taking them in the order in which they stand in your letter.

Your first question is:—"When the Federal Union was formed by the adoption of our present Constitution, did, or did not, each member thereof possess such a republican form of government as satisfied the Constitution, and which, it is declared, the United States shall guarantee to every State of the Union?"

I answer, yes,—most certainly it did; and that, to suppose the contrary,—that any State was admitted into the Union, whose government, at the time, was not republican, within its meaning, would be absurd in the extreme. The Constitution provides, in express terms,* that—"The United States shall guarantee to every State in the Union, a republican form of government; and shall protect each of them against invasion; and, on application of the Legislature, or of the Executive (when the Legislature cannot be convened), against domestic violence." To suppose, under the first of these provisions, that any State, whose government was not republican, within the meaning of the guarantee, would ratify the Constitution and enter into the Union, and that the other States would accept the ratification and admit her, is too absurd for belief. It would be to suppose, that the State, so ratifying, stipulated for the suppression of the very government under which it entered the Union, and that the Government of the State called the Convention for ratifying the Constitution, with the design that it should be suppressed; or that she was ignorant of what she was doing It would also be to suppose, that the other States, in accept-

* Const. of the U. S. Art. 4, Sec. 4.

ing the ratification, and admitting her into the Union, permitted that to be done, which was directly opposed to the guarantee; and which, under the duty it imposed on them, they would be bound to suppress; or that they, too, were ignorant of what they were doing. Absurdity could not go further.

On this ground I rest my answer to your first question. Others might be added; but this is deemed sufficiently strong of itself.

Your second question is in the following words: "When a State has been admitted into the Union, and shall call on the Federal Executive for protection, in the manner, and for the purpose prescribed in the section quoted, can he pause to inquire and judge whether such State has, or has not a republican form of government; and according to his opinion thereon, grant or withhold the aid demanded?"

Your question, as I understand it, presupposes a case of domestic violence, within the meaning of the Constitution; and also that the State has made application, in the form it prescribes, for protection; and that your object is, to know if, in my opinion, the Federal Government has a right to determine whether the Government of the State is republican or not; and if it be not, whether the fact would take the case out of the guarantee, and make it the duty of the Federal Government to withhold the protection? With this understanding, I shall proceed to reply to it.

I answer, yes; but to explain the reasons and principles on which my answer rests, and the restrictions to which the high and delicate right involved is subject, it will be indispensable to enter fully into the nature and object of the section quoted;—and which, for brevity, I shall call the *guarantee section*,—with the duties it imposes, and the rights it confers on the Federal Government. There is not another in the whole instrument more important; or, on the

right understanding of which, the success and duration of our political system more depend.

The section contains three distinct stipulations and guarantees,—that of a republican form of government, to every State of the Union,—that of protection to each against invasion,—and that against domestic violence, on the application of the Legislature, or the Executive, when the Legislature cannot be convened. The States themselves are the parties,—that is, the people of the several States,—as forming distinct, sovereign communities,—and organized under their respective governments. Such is clearly the meaning of the words in the section; and it is in this sense I shall use the words, *States, and People*, in this communication, unless otherwise explained. The language of the section is,—"The United States shall guarantee;" followed by the three stipulations, or guarantees.

In order to ascertain the intention of the parties, in entering into them, we must turn to the preamble of the Constitution, which declares the objects for which it was ordained and established. Among them we shall find three specified;—"to insure domestic tranquillity,—provide for the common defence,—and to secure the blessings of liberty to ourselves and our posterity"—which have direct reference to the three guarantees; and to which they clearly stand as *means* to an *end*.

The framers of the Constitution were deeply versed in the history of free and confederated States; and knew well the dangers to which they are exposed from external and internal causes; and devised ample guards against them,—among which these three guarantees are not the least efficient. In order to form a true conception of the mode in which they were intended to act, and to place a correct construction on the guarantees, it will be necessary to inquire, what are the quarters from which the peace, safety, and liberty of the States may be endangered, and against which

the guarantees are intended to protect them. They may be, in the first place, from force or violence from within; against which, the guarantee of protection against domestic violence is clearly intended. They may be, in the second place, from hostile attacks from without; and against which, the guarantee of protection against invasion is as clearly intended. And finally, they may be from the ambition and usurpation of their governments, or rather rulers; against which, the guarantee of a republican form of government is intended, as I hold and shall hereafter show, as a protection.

Such being the quarters, from which the peace, safety, and liberty of the States may be endangered or destroyed, and against which the guarantees were intended to secure them, that construction of the *guarantee section*, which shall most fully meet, and most effectually guard against the dangers from these various quarters, and which may not be inconsistent with a fair interpretation of the language of the section, may justly be assumed to be the true one. Guided by this rule, I shall now state what I believe to be its true construction; beginning with the guarantee to protect each State against domestic violence.

I hold, that its object is, to protect the *Governments* of the States, by placing that of each under the protection of the united power of all the States, against such domestic violence or force, as might endanger or destroy it from *within*. It is clearly one of the means, by which the peace, safety, and liberty of the State itself may be endangered or destroyed; and hence it clearly falls within the class of objects, to which the guarantees stand, as means to an end,—as has been stated. If to this be added, that it is difficult, if not impossible, to conceive how force or violence, from within, could be brought to bear against the State, except by being directed against its Government, it would seem conclusive that its protection is the immediate object of this

guarantee. Any other would be violence offered by individuals against individuals; and would fall within the jurisdiction of the local authorities and Courts.

But if any doubt should still remain, that the protection of the *Government* of the State is the object, the wording of the guarantee would suffice to remove it. It expressly provides, that the protection shall be on the application of the Legislature of the State, or its Executive, if its Legislature cannot be convened; and thus vests in the *Government of the State*, and not the Federal Government, the right to determine whether there has been a case of domestic violence or not; and also of the necessity and propriety of applying for protection. It is only on such application that the Federal Government has any right whatever to interfere. This provision, of itself, would strongly indicate that the *Government* was the object of protection: but as strong as the indication is, of itself, it will be greatly strengthened by adverting to the reasons for inserting it, deduced from the character of our system of government.

In our complex system, the objects for which governments are instituted, are divided between the Federal and State Governments. The former is the common government of all the States; and to it is specifically delegated the powers necessary to carry into effect all the objects in which they have a common interest. The latter are the separate and peculiar governments of each; and to them and the people, all the other powers are reserved. Among them are embraced those that refer to the internal peace and safety of each State; to the governments of which, it exclusively belongs to determine what may endanger or destroy them; and the measures proper to be adopted to protect them. It is in strict accordance with this distribution, that protection, in case of domestic violence, should be on application of the Government of the State against which it is directed. What adds to the force of the reasoning is, that the pro-

vision is omitted in the other two guarantees, when the cause of inserting it does not exist. That it does not in the case of invasion, is clear; as all that appertains to the foreign or exterior relations of the States, belongs, in the distribution, to the Federal Government; and is accordingly embraced among the delegated rights. Hence, it is made its duty, to act, in that case, without waiting the application of the Government of the State invaded. The reason of its omission, in the case of the guarantee of a republican form of government—though less obvious, is not less strong, as I shall show when I come to consider it.

Such are my reasons for believing, that the immediate object of this guarantee, is the protection of the *Government* of the State, against force or violence from *within*, directed against it with a view to its subversion.

The next guarantee is, protection to each State against invasion. Its object is so clear, and it is so slightly connected with the objects of your inquiry, that I shall pass it over, without adding to the remarks I have made, incidentally, in reference to it, in considering the preceding guarantee.

I come now to the last, in the order in which I am considering them; but the first as they stand in the section; and the one immediately involved in the question under consideration,—I mean the guarantee of a republican form of government to every State in the Union.

I hold that, according to its true construction, its object is the reverse of that of protection against domestic violence: and that, instead of being intended to protect the *Governments* of the States, it is intended to protect each *State* (I use the term as explained) against its Government; or, more strictly, against the ambition or usurpation of its rulers. That the objects of the Constitution, to which the guarantees refer,—and liberty more especially,—may be endangered or destroyed by rulers, will not be denied. But, if admitted,

it follows as a consequence, that it must be embraced in the guarantees, if not inconsistent with the language of the section. But if embraced, it must be in the guarantee under consideration, as it is not in the other two. If it be added that, without this construction, the guarantees would utterly fail to protect the States against the attempts of ambition and usurpation on the part of rulers, to change the forms of their governments, and to destroy their liberty,—(the danger, above all others, to which free and popular governments are most exposed), it would seem to follow irresistibly, under the rule I have laid down, that the construc tion which I have placed on the provision, as to the object of the guarantee, is the true one. But if doubts should still remain, the fact, that it fully explains why the provision which requires the application of the State, in case of the guarantee against domestic violence, is omitted, would place it beyond controversy; for it would be a perfect absurdity to require, that the party, against which the guarantee is intended to protect, should make application to be protected against itself.

There remains, indeed, one other quarter, from which the liberties of the States (one of the leading objects of the guarantees) can be destroyed: I mean the people themselves, constituting the several States, and acting in their political character, as citizens, and according to constitutional and legal forms. They may, acting in this character, if they choose, subvert the republican form of government, under which they entered the Union, and establish one of another form; and, thereby, abandon their liberty. I say, abandon it,—for, according to the exalted conception of our ancestors, nothing was worthy of the name of liberty, but that which was enjoyed under free popular governments. Against this danger, there is, and can be no guarantee. The reason requires but little explanation. The States themselves are parties to the guarantee; and it would be absurd to suppose that they undertook to enter into a guarantee against themselves.

Besides, liberty, from its nature, cannot be forced on a people. It must be voluntarily embraced. If the people do not choose to embrace it, or continue it, after they have, it cannot be forced on them. The very act of doing so, would destroy it; and divest the State of its independence and sovereignty, and sink it into a dependent province. But, if it had been possible for it to be otherwise, even in that case, there would have been no guarantee against it. To provide one, would have been regarded as a superfluous precaution; for it was not in the heart of our free and brave ancestors, to conceive that any State of the Union would voluntarily abandon its liberty, by substituting for its republican government, one of a different form. Had such a proposition been made, it would have been regarded as an insult.

Such is the construction I put on the immediate objects of the three guarantees; with my reasons for it. As strong as they are, when the guarantees are considered separately, they are still more so, when viewed in connection as a whole. Thus viewed, according to my construction, they fully meet, and effectually guard against (as far as in the nature of things can be done) every danger, by which the peace, safety, and liberty of the States may be jeopardized or destroyed.

If lawless force, or violence of individuals, under whatever pretext, should be turned against the Government of the State, or its authority, from *within*, with the view of subverting them, the guarantee, to protect each from domestic violence, meets the case; if the attack should be from *without*, that against invasion meets it; and, finally, if the rulers should attempt to usurp power, and subvert the republican form of government, under which the State was admitted into the Union, the guarantee of a republican form of government to every State of the Union meets it. Thus, every door, through which danger may enter, that can in the nature of things be closed, would be closed, if the Federal Government should faithfully enforce the guarantees. Under no other

construction, would it be the case; which is proof conclusive, that the construction which I place upon the section, is the one intended by the framers of the Constitution.

Having now explained my views of the nature and character of the guarantee section, it will not be difficult to assign my reasons for the answer I have given to the question under consideration. In determining what its duties are, under the section, the Federal Government must look to the whole; and take care that, in enforcing one of the guarantees, it does not violate its duties under another. It has been shown that the objects of the guarantee against domestic violence is, the protection of the *Government* of the State; but when the Government of a State ceases to be republican, it loses its right to protection. This, it has been shown, may take place, by the usurpation of rulers, or by the voluntary act of the people. It is clear that, in either case, the Government of the States should withhold it; and of course it must have the right, in every case, to determine whether the application of a State for protection, be one of such cases or not. In the case of the usurpation of its rulers, it would be the duty of the Government, not only to withhold protection, but to unite its power with the people of the State, to suppress the usurpation. What would be its duty, in addition to withholding protection, in the other, I shall explain in the proper place, when I come to consider what would be the effect of a voluntary change of government, on the part of the people, from a republican to any other, on the relation of the State with the rest of the Union. But, while I admit the right, I also admit, that it is a high and delicate one; the highest and most delicate of any conferred on the Federal Government: and, I would add, the most dangerous, if I did not regard it subject to such restrictions, as left but little discretion in its exercise. What they are, I shall next proceed to consider.

The first, which I consider the foundation of all others, is to be found in my answer to your first question,—that the Federal Government, in determining whether the Government of a State be, or be not republican, within the meaning of the Constitution, has no right whatever, in any case, to look beyond its admission into the Union. From this fundamental restriction, another, deduced from it, necessarily follows, of no little importance,—that no change made in its Government, after its admission, can make it other than republican, which does not essentially alter its form, or make it different in some essential particular, from those of the other States, at the time of their adoption. In other words, the forms of the Governments of the several States, composing the Union, as they stood at the time of their admission, are the proper standard, by which to determine whether any after change, in any of them, makes its form of government other than republican.

But I take higher ground in reference to subsequent changes; and lay it down as a rule, that none such can fairly present the question, if the Federal Government should faithfully perform its duties under the guarantees,—except such as may be made voluntarily by the people of the State, consistently with constitutional and legal provisions; and that, I have shown, would not be a case within the guarantees. So long as it performs faithfully its duties, it is manifest, from what has been stated, that no change in the form of Government of a State, can be made by force or violence from without or within,—from invasion, or from domestic violence; unless it be such, as the united resistance of the Federal Government and that of the State, cannot overcome; and which, of course, would admit of no question under the guarantees.

The only remaining change that could be made, except by the voluntary act of the people, as stated, is that by the usurpation of the rulers of the State, for the time being;—

and this the ballot-box would put down,—unless they should resort to force; when it would become, and not before, the duty of the Federal Government to enforce the guarantee, and suppress the usurpation. But this would be a case which would speak for itself, and admit of little doubt in determining; and would rarely, if ever, occur,—if the Federal Government should do its duty, under the formidable difficulties which the guarantees oppose to such cases.

The remaining mode, in which a change of the form of government of a State may be made, from the republican to some other, is, by the voluntary act of the people of the State themselves, acting in their political character, and consistently with constitutional and legal provisions; and this, as I have shown, would not come within the guarantees. But, as it is intimately connected with the subject of your questions, I deem it proper to state what would be the effect of such an act, and the relation in which it would place the State, in reference to the others.

It would, in my opinion, be a clear case of secession,—as clear as it would be for the State to do an act inconsistent with a fundamental principle of the Union; and to assume a character not compatible with her remaining in it. She would, in fact, be a foreign State; and would stand in the same relation to the others, as one foreign State does to another; and, of course, would have no right to claim any protection under the guarantees; or, if she did, the Federal Government would be under no obligation to grant it. There might, indeed, on such application, be a question,—whether, in fact, the change was such, as to make the Government of the State other than republican,—which would have to be decided under the restrictions I have stated. But, if doubt should still remain, the decision should be in favor of the State, when the consequence of deciding against her would be, to withhold protection, and place her out of the Union.

With these restrictions, this high and delicate power

would be safe in the hands of the Federal Government; but without them, none could be more dangerous. Give to the Federal Government the right to establish its own abstract standard of what constitutes a republican form of government, and to bring the Governments of the States, without restriction on its discretion, to the test of this standard, in order to determine whether they be of a republican form or not, and it would be made the absolute master of the States. A standard more uncertain, or a greater or more dangerous power, could not be conceived. The Governments of one half of the States of the Union would not stand the test, which would be adopted by a large portion of the other half; and not one, that which many would adopt. The consequence would be, that, instead of tranquillity, safety, and liberty,—anarchy, insecurity, and despotism would universally prevail; and the object of the guarantees be utterly defeated. Nothing but the most rigid adherence, in all cases, to the restrictions laid down, can avert it. To relax in any, even the strongest, would open wide the door of unlimited discretion, and leave the Federal Government, without restriction, to fix on such a standard, as the caprice, ambition, party influence, or party calculations of those who, for the time being, might hold the reins of power, might dictate.

With this answer to your second question, I shall now proceed to reply to your third. It is in the following words: —"After a State has been admitted into the Union, has the numerical majority of the people of such State the right to alter or abolish the Constitution, regardless of the mode prescribed for its amendment,—if any; and where there is none, of the refusal or assent of such State?"

I answer—no; neither after, nor before admission. If the right exist at all, it must be either a natural or acquired right. It cannot be the former; because all such rights belong to man in what is called the state of nature,—that is, in the state which is supposed to precede the existence of

government,—or, what is called, the political state. Although the human race cannot exist without society, nor society without government, yet, in the order of things, man must have existed before society, and society before government. And hence it has not been unusual for elementary writers on morals and politics, in treating of the rights and duties of man, to regard him in each of these states. In his natural state, he is considered simply as an individual, with no superior; and his rights and duties are deduced from those faculties and endowments, physical, intellectual, and moral, —which are common to the race. Regarded in this state, all are equal in rights. In it, each individual is the sole master of his own actions; and there are neither majorities nor minorities,—nor the rights of majorities and minorities. In the other, or political state, he ceases to be regarded in this isolated and independent character, and is viewed as a member of a body politic, or a State;—that is, a society organized under a government, which represents its sovereign will, and through which it acts. It is in this state, and this only, that majorities and minorities are known, or have, as such, any rights. Whatever rights they possess, are political rights,—the whole class of which are acquired,—and are called conventional; that is, rights derived from agreement or compact, expressed or implied. How absurd, then, is it, to suppose the right of a majority to alter or abolish the Constitution is a natural right,—a right belonging to man regarded as existing in a state of nature,—when, in that state, majorities and minorities are unknown.

If, then, the right of the majority exist at all, it must be as a conventional right; and fortunately for the decision of the question, if it really exists in that character in our system, there will be no difficulty in finding it. The provident foresight of our ancestors has not left to conjecture or implication, in whom the right to abolish constitutions, or forms of government, resides; or how, for the most part, it

is to be exercised. In every case (including the Federal Constitution) except New Jersey and Virginia,—and recently Rhode Island,—the authority by which it is to be exercised, and in what manner, is designated in the constitutions themselves. In all, if my memory be correct, the agency of the Government, in some form, is required, to alter or amend the Constitution. In a few, it may be done by the State Legislatures, according to the forms prescribed, without the express sanction of the people; but in all such cases, more than a mere numerical majority of the members is required. The most common form is, through a Convention of the people of the State,—to be called by the Legislature thereof; and in the far greater number, two thirds of the Legislature are necessary to call a Convention;—and, in all, the right of voting for the members of the Convention, or on the ratification of the Constitution, when submitted to the people, is restricted to those having the right of suffrage under the existing Constitutions. In one State, the votes of two thirds of the qualified voters are necessary to make the change. These various provisions clearly indicate the sense of the people of the United States, that the right of altering or changing constitutions is a conventional right, belonging to the body politic, and subject to be regulated by it. In not a single instance, is the principle recognized, that a mere numerical majority of the people of a State, or any other number, have the right to convene, of themselves, without the sanction of legal authority,—and to alter or abolish the Constitution of the State.

Now, as the right, if it exists at all, must exist as a conventional right,—that is, a right founded on express agreement or compact, or, in the absence of such an one, implied, it follows, from the statement, that it does not exist by express agreement or compact, in any of the cases, where provision is made for amending the Constitution: nor can it exist by implication, in any State, unless in the only two where Constitutions make no provisions on the subject.

That the right does not exist by implication in these States (New Jersey and Virginia), I hold to be equally certain. The fact, that their Constitutions do not provide for their amendment, cannot, by any force of reason, imply the right of the majority, to alter or abolish their Constitutions, without the consent of their respective Governments. Government, as has been stated, is the representative of a State, in its sovereign character, and the organ through which it acts. As such, it is vested with all powers necessary to the performance of its high functions, and which are not prohibited or expressly withheld by its Constitution, and among them, the most important of all, that of self-preservation. In our complex political system, the powers belonging to Government, as has been stated, are divided,—a portion being delegated to the Federal Government, as the common representative of all the States in their united character;—and the residue expressly reserved, to be exercised by the States, in their separate and individual character. Of this portion, the State Governments are the representatives and organs; and as such, are invested with all the powers not delegated, which properly appertain to Government, and which are not prohibited by their own, or the Federal Constitution. But they do not comprehend the power to make, alter or abolish constitutions, which, according to our political theory, belongs exclusively to the people; and cannot be exercised by Government, unless specially delegated by the Constitution. With these exceptions, the Governments of the States possess all others; and among them, that of proposing amendments to their Constitutions, and calling conventions of the people, for the purpose of amending, or proposing amendments, to be ratified by the people. That this power properly appertains to the functions of Government, and may be exercised without being delegated, will not be contested or denied. It has been uniformly exercised, and has never been questioned; and it is through its autho-

rity, whenever the Constitution provides for its amendment, that conventions are called, or propositions submitted for the purpose, are made. But being a power appertaining to government, it belongs to it exclusively; for government is not only the representative and organ of a State, in its sovereign character, but its sole and exclusive representative and organ; and it has, accordingly, ever been regarded, at every period of history, and under governments of every description, among the highest crimes, for unauthorized individuals to undertake to exercise powers properly belonging to it;—and as such, it has been prohibited under the severest penalties.

If I do not mistake, your Legislature has made the exercise of the very power in question,—that of calling a Convention to amend the Constitution, without its authority, a high penal offence. If I mistake, you can correct me. But whether mistaken or not, surely none will deny, that it is within its competency, or that of the Legislature of any other State, to make it so.

But, it may be asked, if it be a power belonging to Government, and may be exercised without being specially delegated, why have the Federal, and all the State Constitutions,—the two mentioned excepted,—made provisions for their alteration and amendment? Why was it not left to the discretion of Congress, and the State Legislatures, to call conventions, or propose amendments to the people for their ratification? It is not because the power of doing either was doubted, but because those who framed them, while they were too wise not to see that amendments would become necessary, were, at the same time, too deeply impressed with the danger of frequent changes in the fundamental law of a State, to permit amendments to be made with too much facility. To meet the one, it was necessary that they should be left open to amendments; and to guard against the other, that restrictions should be imposed on the amending power; or, without them, the numerical majority

of the Legislature might call conventions, or propose amendments at pleasure,—to be adopted by a like majority of the people. The consequence would be, that Constitutions might be changed with almost the same facility as ordinary acts of the Legislature. It is to restrain this facility, that in all cases, where the Constitution provides for its amendment, it imposes restrictions on the power of amending, which would not otherwise exist. To impose such restrictions, was indeed the great object which their framers had in view, in prescribing the mode of amending; and it may be fairly doubted, whether without this, it would not have been left with the Government,—as in the case of Virginia and New Jersey,—to propose amendments and prescribe the forms for their adoption.

In denying, however, the right of the numerical majority, as such, to alter or abolish the Constitution of a State, regardless of the forms prescribed, or, where there are none, without the consent of the Government, I am far from denying that the people are the source of all power; and that their authority is paramount over all. But when political, and not natural rights are the subject, the people, as has been stated, are regarded as constituting a body politic, or State; and not merely as so many individuals. It is only when so regarded, that *they possess any political rights.* Viewed individually, as the elements of which the body politic is formed, they possess none but natural rights. Taken in either light, the people may alter or abolish their Constitution; but with this difference,—that, in the former, they can only do it by acting according to the prescribed forms, where there are such,—and when there are none, through the agency of its representative and organ—the Government of the State;—while, in the latter, they act individually, and on individual responsibility. The one is a political, and the other a natural right;—or as usually called, in such cases, *the right of revolution;*—and can be resorted to,

rightfully, only where government has failed in the great objects for which it was ordained,—the security and happiness of the people; and then only where no other remedy can be applied. In such cases, the individuals who compose the community rightfully resume their natural rights; which, however restricted or modified they may be, in the political state, are never extinguished. But as a natural right, it is the right of individuals, and not that of majorities; although it may not be so safely and prudently exercised by one man, or a minority as a majority, it belongs to one as well as the other.

Such is my answer to your third inquiry,—and my reasons for entertaining the opinions I do on the question, in the general terms in which it is expressed. But I am of the impression that a more specific answer is required, to meet fully your intention in propounding it. Your question, as I conceive, presupposes a case of domestic violence, and of application, in due form, by the Government of the State, for protection; and that the precise point, on which you desire my opinion, is, whether the fact, that the violence was under the assumed authority of the numerical majority, to alter or abolish the Constitution, would take it out of the guarantee, and make it the duty of the Federal Government to withhold its protection? And it is, as I understand it, with the view of obtaining an answer to it, in this form, that you have limited your question, as to the supposed right of a numerical majority to alter or abolish its Constitution, to the case of a State after its admission into the Union. With this understanding of your object, I shall proceed to answer.

Whether the fact, that the violence was offered under the assumed authority of the majority, would take the case out of the guarantee, must obviously depend on the fact, whether it has the right assumed. If it has the right to alter or abolish the Constitution of the State, and to establish another in its place, the necessary consequence would be,

that the one abolished would cease to be, and the one established would actually become rightfully the Constitution. It would, also, be a necessary consequence, after establishing the new, that those who might assume to exercise the functions of government under the old and abolished Constitution, against the new and actual, would be exercising it without constitutional or legal authority; and that, if the new government should undertake to put down the old by force or violence, and it should apply to the Federal Government for protection, it would be its duty to withhold it. I go farther. If the old should resort to force or violence to suppress the new, and this should apply to the Federal Government for protection, it would be its duty to grant it, and suppress the old. But, on the contrary, if the numerical majority has not the right, all this, of course, would clearly be reversed; and it would be the duty of the Federal Government to grant protection to the old, instead of the new; and, on its application, to put down those who might attempt to subvert it, under the authority of the new. They would, in fact, be a mere body of individuals, acting without constitutional or legal authority; and with no more right to resort to violence against the Government of the State, than any other number of individuals, acting without pretext, against the authority of either.

That the numerical majority has not the right, in either of the cases supposed in your question, I have, I trust, established beyond controversy;—and if so, it is no less unquestionable that, the fact of the violence being offered under its authority, cannot possibly take the case out of the guarantee, and make it the duty of the Federal Government to withhold its protection. Fatal, indeeed, would be such a right. Its admission would be the death-blow to republican forms of government, or, what is the same thing, constitutional democracy.

Constitutions stand to governments, as laws do to in-

dividuals. As the object of laws is, to regulate and restrain the actions of individuals, so as to prevent one from oppressing or doing violence to another,—so, in like manner, that of constitutions is, to regulate and restrain the actions of governments,—so that those who exercise its powers, shall not oppress or do violence to the rest of the community. Without laws, there would be universal anarchy and violence in the community; and, without constitutions, unlimited despotism and oppression. This is true, be the form of government what it may. If the government of one man, or that of a few, would abuse its authority, if not restrained, —as is admitted,—there is no reason why that of the many would not do the same, if not also restrained. If, in a community of one hundred persons, forty-nine cannot be trusted with unlimited power over fifty-one,—on what principle can fifty-one be trusted with unlimited power over forty-nine? If, unrestrained, the one will abuse its powers, why will not the other also? Can the transfer of a single individual, from the side of the fifty-one to that of the forty-nine, have the magic effect of reversing the character of the two, and making that unsafe, which before was trustworthy?

The truth is,—the Government of the uncontrolled numerical majority, is but the *absolute and despotic form* of *popular governments*;—just as that of the uncontrolled will of one man, or a few, is of monarchy or aristocracy; and it has, to say the least, it has as strong a tendency to oppression, and the abuse of its powers, as either of the others. Hence it is, that it would be the death-blow of constitutional democracy, to admit the right of the numerical majority, to alter or abolish constitutions at pleasure,—regardless of the consent of the Government, or the forms prescribed for their amendment. It would be to admit, that it had the right to set aside, at pleasure, that which was intended to restrain it,—and which would make it just no re-

straint at all; and this would be, to attribute to the simple numerical majority, an inherent, absolute, and paramount power, derived, not from agreement, compact or constitution, either expressed or implied, but a higher source. It would be, in short, to attribute to it the same divine right to govern, which Sir Robert Filmer claimed for kings; and against which, Locke and Sydney so successfully combated. The argument, in both cases, is drawn from the same source, and leads to the same consequence. Admit political power to be *inherent*,—it matters not whether in a dynasty, or in a numerical majority,—and the consequence is inevitable,—that it is absolute, and cannot be subject to constitutional restraints. It is only on the opposite theory,—that all political rights are derived from assent or compact, expressed or implied, and are conventional,—that government, be its form what it may, can be subject to constitutional restraints; and it is, accordingly, to this source, that Locke, Sydney, and other writers on the side of liberty, traced them. Fortunately for us, their doctrines became the creed of our ancestors, and the foundation of our free, popular, and glorious system of Governments, in which laws derive their authority from constitutions; and these, *from the free and united assent of the whole community, given expressly, or by a cheerful acquiescence.* Admit the opposite doctrine,—the inherent and absolute right of the numerical majority,—and all the restrictions which the Federal and State Constitutions impose on their respective Governments, and on the mode prescribed for their amendment, would be idle and delusive attempts to prevent the abuse of power, and to give a stability to our political system, inconsistent with the principles on which it would rest,—and would prove utterly worthless in practice. There is, and always must be, a majority in, or out of power. If the one has a right to alter or abolish the Constitution, the other must have an equal right to do so. If the majority out of power

have the right to call, at their pleasure, a caucus or convention (the name is immaterial), and to alter or abolish the existing Constitution or Government, and establish others which would place them in power,—surely the majority in power have the same right, by the same process, to alter or abolish all the restrictions which the Constitution may place on their power, and make themselves absolute. And when it is remembered how irksome restraints are, who can doubt, if the right be admitted, but that it would soon become the established practice, when the tedious and cumbrous forms, which both the Federal and State Constitutions prescribe for their amendment, would be dispensed with. Once commenced, it would soon supersede entirely the prescribed forms; and when this was done, in a short time, the ceremony of calling a caucus or convention of the major party, be it out of, or in power, would be regarded as too tedious and troublesome,—and the ordinary elections, or some still less certain evidence, would be regarded as sufficient to infer the will of the majority, and to supersede the Constitution; when the will of the numerical majority would take the place of Constitution and laws, and become the sole and absolute power.

This fatal process would be greatly accelerated, if the right of the numerical majority to alter or abolish constitutions, at pleasure, should be admitted, by the very guarantees, which were intended to secure the blessings of liberty, and give stability to our popular constitutional system. I have already shown that, if the right really exists, it would be the duty of the Federal Government, under the guarantee to protect the State against domestic violence, to aid always the side of the numerical majority to suppress the other. If it should be the majority *in power*, seeking to free itself from the restrictions imposed on the Government by the Constitution, it would be its duty to aid it, and to put down those who might attempt to resist the change;

or, if it be the majority, *out of power*, seeking to alter or abolish the Constitution and Government, and substitute another, which would give them the power, the Federal Government would be equally bound to take its side, and put down those who might attempt to uphold the authority of the Constitution and Government. The consequence would always be, to add the power and authority of the Federal Government to that of the majority in the State, seeking a change of Constitution and Government, be it in or out of power; and thus, instead of giving stability to the system, the guarantees would become the means of incessant changes and revolutions, and utterly destructive of the ends they were intended to effect.

Having now stated the reasons and principles on which I rest my answer to your third question, I shall proceed to reply to your fourth. It is in the following words :—

"If one of the States of this Union, through her Government, should deny the right of a numerical majority of her people, to alter or abolish her Constitution at pleasure, and such majority should resort to force to effect its object,—and the proper authority, under the Constitution proposed to be suppressed, should call on the Federal Government for protection,—what would you regard as your duty, if President of the United States ?"

My answer, after what I have already stated, is a matter of course. I would enforce the guarantee, and protect the State, to the extent of the authority vested in the President of the United States by the Constitution, and Acts of Congress made in conformity to it ;—provided (which, I presume, you assumed to be the fact) that the case, in all other respects, is within the provisions of the guarantee.

Your fifth question is,—"If it should be deemed the right of the numerical majority to supersede the existing form of the Government of a State, at pleasure,—and such majority should seek to establish another form of government,

other than republican, what would be the remedy, and what the duty of the Federal Government?

As I do not deem it to be the right of the numerical majority, it will not be expected that I should answer the question: but I have, in answer to your second inquiry, stated what would be the effect if the people of a State, acting constitutionally and legally, should abolish their present republican form of government, and establish another of a different form, which will show what would be my opinion, if I thought the numerical majority had the right. If they had, it would make the numerical majority, in fact, the State;—that is (as explained), the people,—to the exclusion of the rest of the community; and, of course, would give to its act, abolishing the republican form of the government of a State, and establishing one of another form, the same effect, as if done by the people of the State themselves, acting constitutionally and legally.

I come now to your sixth and last question, which is in the following words:—

"As these inquiries have grown out of the Rhode Island question, and that controversy out of the right of suffrage, I ask your opinion on the right of suffrage involved in the controversy."

As I understand the case, the question of suffrage involved was,—whether the freehold suffrage, which existed under their form of government, should not be superseded, and the right be extended to the great mass of the community? It was, to express it in general terms, whether the right of suffrage should be restricted to freeholders, or be placed on a more liberal and enlarged basis?

My opinion is, and ever has been in favor of placing the right of suffrage on an extended basis. One of my first public acts was, to vote, as a member of our State Legislature, for an amendment of the State Constitution, to enlarge the right, and place it on the very liberal basis on which it

now stands. The practical operation of the alteration has been good; and I have never had cause to repent my vote, or to change my early opinion. Thus thinking, my opinion and sympathy were on the side of, what has been called, the Suffrage Party, in Rhode Island, as far as the enlargement of the right was involved. The same remark is applicable to the other question involved in the controversy,—whether the old form of government, under the Charter, should not be changed to one more analogous to that of the other States. But I regarded both as strictly domestic questions; and, as such, belonging to the State. Thus regarded, I hold that, so long as the controversy was confined to discussion and agitation, the Federal Government could take no cognizance of it; nor even, on a resort to force, until the Government of the State applied, in due form, for protection: and then, only, to determine whether the case came within the guarantee; and if so, to fulfil its duties. It had, even then, no right to take cognizance of the original cause of the controversy, or to be influenced by its opinion, in reference to it; —unless, indeed, it should incidentally become necessary in determining whether the case came within the guarantee or not,—which could scarcely be possible. Under this impression, I could not permit my individual opinion and sympathy, in reference to the original subjects of the controversy, to control or influence me, in deciding in my official character, on what would be the duty of the Federal Government, in a case involving so many, and such high and solemn constitutional questions, when viewed in, what may be called, the Federal aspect of the subject,—in contradistinction to its domestic.

Having, now, answered your several questions, I deem it due, both to myself and the occasion, to state, in conclusion, what, according to the opinion I entertain, would be the effects of these guarantees, on the supposition that the Federal Government shall faithfully discharge the duties they impose.

The great and leading effect would be, to put an end to all changes in the form of government, and Constitutions of the States, originating in force or revolution ; unless, indeed, they should be effected, against the united resistance of the State and the Federal Government. It would give to the Government and Constitution of each, the stability of the whole ; so that no one could be subverted without subverting, at the same time, the whole system : and this, I believe to have been the intention of the framers of the Federal Constitution in inserting the guarantee-section. They were experienced and wise men, and did their work effectually. They had carried the country successfully through, by their wisdom and patriotism, the most remarkable political revolution on the records of history, and firmly established the Constitutions and Governments of the States, composing the Union, on the great principles of popular liberty, in which it originated. Nothing was left undone to perfect their great and glorious task, but to reconstruct, on more correct and solid principles, the common Constitution and Government of all the States, and bind them into one compact and durable structure. This was their crowning work ; and how well it was performed, the Federal Constitution and Government will stand, more durable than brass, an everlasting monument of their wisdom and patriotism.

But very imperfect, indeed, would their task have been left, if they had not adopted effectual means to guard all the parts against the lawless shocks of violence and revolution. They were too deeply read in the history of free and confederated States, not to know the necessity of taking effectual guards against them ; and for this purpose, inserted in the Constitution the guarantee-section, which will effectually and for ever guard against those dangerous enemies of popular and constitutional governments, if the Federal Government shall faithfully do its duty. They would, in such case, effectually close the doors, on every side, against

their entrance,—whether attempted by invasion from *without*,—domestic violence from *within*,—or through the lawless ambition and usurpation of rulers.

But while the framers of the Federal Constitution thus carefully protected the system against changes by the rude hand of violence and revolution, they were too experienced and wise to undertake to close the door against all changes. They well knew, that all the works of man, whatever may be their skill, are imperfect of themselves, and liable to decay; and that, in order to perfect and perpetuate what they had done, it was necessary to provide a remedy to correct its imperfections, and repair the injuries of time, by making such changes as the one or the other might require. They also knew that, if such changes were not permitted, violence and revolution would, in time, burst open the doors which they had so carefully closed against them, and tear down the whole system, in their blind and unskilful attempts to repair it. Nor were they ignorant that, in providing for amendments, it would be necessary, in order to give sufficient stability to the system, to guard against hasty and thoughtless innovations; but, at the same time, to avoid such restrictions as would not leave sufficient facility for making the requisite changes. And this, too, is executed with the same wisdom and skill, which characterized every other part of their work, in the various provisions contained in the Federal Constitution for amendments;—which, while they afford sufficient guards against innovations, afford at the same time sufficient facility for the objects contemplated. But one thing still remained to perfect their work.

It might be, that the party in power would be opposed to all changes, and that, in consequence of the door being thus closed against force and revolution, and the restrictions imposed on the amending power, in order to prevent hasty innovations,—they might make successful resistance against all attempts to amend the Constitution, however necessary,

if no adequate provision were made to prevent it. This they foresaw, and provided against it an ample remedy; after explaining which, I shall close this long communication.

The framers of the Federal Constitution were not only experienced and wise men, but firm believers, also, in the capacity of their fellow-citizens for self-government. It was in the full persuasion of the correctness of this belief, that, after having excluded violence and revolution, or physical force, as the means of change, and placed adequate guards against innovation, they opened wide the doors,—never to be closed,—for the free and full operation of all the moral elements in favor of change; not doubting that, if reason be left free to combat error, all the amendments which time and experience might show to be necessary, would, in the end, be made; and that the system, under their salutary influence, would go on indefinitely, purifying and perfecting itself. Thus thinking,—the liberty of the press,—the freedom of speech and debate,—the trial by jury,—the privilege of *Habeas Corpus*,—and the right of the people peaceably to assemble together, and petition for a redress of grievances,—are all put under the sacred guarantee of the Federal Constitution, and secured to the citizen against the power both of the Federal and State Governments. Thus it is, that the same high power, which guarantees protection to the Governments of the States against change or subversion by physical force, guarantees, at the same time, to the citizens protection against restrictions on the unlimited use of these great moral agents for effecting such changes as reason may show to be necessary. Nor ought their overpowering efficacy to accomplish the object intended, to be doubted. Backed by perseverance, and sustained by these powerful auxiliaries, reason in the end will surely prevail over error and abuse, however obstinately maintained;—and this the more surely, by the exclusion of so dangerous an ally as mere brute force. The operation may be slow, but

will not be the less sure. Nor is the tardiness an objection. All changes in the fundamental laws of the State, ought to be the work of time, ample discussion, and reflection; and no people, who lack the requisite perseverance to go through the slow and difficult process necessary at once to guard against improper innovations, and to insure wise and salutary changes,—or who are ever ready to resort to revolution, instead of reform, where reform may be practicable,—can preserve their liberty. Nor would it be desirable, if it were practicable, to make the requisite changes, without going through a long previous process of discussion and agitation. They are indispensable means,—the only school (if I may be allowed the expression,) in our case, that can diffuse and fix in the mind of the community, the principles and doctrines necessary to uphold our complex, but beautiful system of governments. In none that ever existed, are they so much required; and in none were they ever calculated to produce such powerful effect. Its very complication—so many distinct, sovereign, and independent States, each with its separate Government, and all united under one—is calculated to give a force to discussion and agitation, never before known,—and to cause a diffusion of political intelligence heretofore unknown in the history of the world,—if the Federal Government shall do its duty under the guarantees of the Constitution, by thus promtly suppressing physical force, as an element of change,—and keeping wide open the door for the full and free action of all the moral elements in its favor. No people ever had so fair a start. All that is lacking is, that we shall understand, in all its great and beautiful proportions, the noble political structure reared by the wisdom and patriotism of our ancestors, and to have the virtue and the sense to preserve and protect it: and happy shall I be, if what I have written in answer to your inquiries, should contribute, in the least, to a better knowledge

of it, and through this, in any degree, to its perfection and preservation.

With great respect, I am, &c., &c.,

J. C. CALHOUN.

Hon. W. SMITH.

THE ADDRESS OF MR. CALHOUN TO HIS POLITICAL FRIENDS AND SUPPORTERS.

I have left it to you, my friends and supporters, through whose favorable estimate of my qualifications, my name has been presented to the people of the United States, for the office of Chief Magistrate, to conduct the canvass on such principles, and in such manner, as you might think best. But, in so doing, I did not waive my right to determine, on my individual responsibility, what course my duty might compel me to pursue ultimately, nor have I been an inattentive observer of the canvass, and the course you have taken.

It affords me much pleasure to be enabled to say, that, on all leading questions, growing out of the canvass, I heartily concurred with you in the grounds you took, and especially those relating to the mode in which the delegates to the proposed Convention to be held in Baltimore should be appointed, and how they should vote. You have, in my opinion, conclusively shown that they should be appointed by districts and vote per capita, but your reasons, as conclusive as they are, have proved in vain. Already New York and some other States have appointed delegates en masse by State Conventions, and one State (Virginia) has resolved that the votes of her delegates shall be settled by the majority, and be counted per capita. Their course would necessarily overrule that which you have so ably supported, should you go into Convention, and would leave you no alternative, but to yield yours and adopt theirs, however

much you may be opposed to it on principle,—or to meet them on the most unequal terms with divided, against united and concentrated forces.

The question is, then, what course, under such circumstances, should be adopted? And that question you will be compelled speedily to decide. The near approach of the time for meeting of the proposed Convention will not admit of much longer delay. But as your course may depend in some degree on that which I have decided to take, I deem it due to the relation subsisting between us, to make mine known to you without *further delay.* I then, after the most careful and deliberate survey of the ground, have decided that I cannot permit my name to go before the proposed Convention, constituted as it must now be, consistently with the principles which have ever guided my public conduct. My objections are insuperable. As it must be constituted, it is repugnant to all the principles, on which, in my opinion, such a Convention should be formed. What those principles are, I shall now proceed briefly to state.

I hold then, with you, that the Convention should be so constituted, as to utter fully and clearly the voice of the people, and not that of political managers, or office holders and office seekers; and for that purpose, I hold it indispensable that the delegates should be appointed directly by the people, or to use the language of General Jackson, should be "fresh from the people." I also hold, that the only possible mode to effect this, is for the people to choose the delegates by districts, and that they should vote per capita. Every other mode of appointing would be controlled by political machinery, and place the appointments in the hands of the few who work it. I object, then, to the proposed Convention, because it will not be constituted in conformity with this fundamental article of the Republican creed. The delegates to it will be appointed from some of the States, not by the people in districts, but, as has been stated, by State

Conventions en masse, composed of delegates appointed in all cases as far as I am informed, by county, or district conventions; and in some cases, if not misinformed, these again composed of delegates appointed by still smaller divisions, or a few interested individuals. Instead, then, of being directly, or fresh from the people, the delegates to the Baltimore Convention will be the delegates of delegates; and, of course, removed, in all cases, at least three, if not four degrees from the people. At each successive remove, the voice of the people will become less full and distinct, until, at last, it will be so faint and imperfect as not to be audible. To drop metaphor, I hold it impossible to form a scheme more perfectly calculated to annihilate the control of the people over the Presidential election, and vest it in those who make politics a trade, and who live, or expect to live on the Government.

In this connection, I object not less strongly to the mode in which Virginia has resolved her delegates shall vote. With all due respect, I must say, I can imagine nothing more directly in conflict with the principles of our federal system of government, or, to use a broader expression, the principles on which all confederate communities have ever been united. I hazard nothing in saying, that there is not an instance in our political history, from the meeting of the first Revolutionary Congress to the present day, of the delegates of any State voting by majority, and counting per capita; nor do I believe an instance of the kind can be found in the history of any confederated community. There is, indeed, something monstrous in the idea of giving the majority the right of impressing the vote of the minority into its service, and counting them as its own. The plain rule, that which has ever prevailed, and which conforms to the dictates of common sense, is, that where a State votes as a State, by a majority of its delegates, the votes count one, be they few or many, or the State large or small. On the contrary, where the votes of all the delegates are counted,

they vote individually and independently, each for himself counting one. And it is to be noted, that wherever this latter mode of voting exists among confederate States, it is in all cases founded on compact, to which the consent of each State is required. In the absence of compact, the invariable mode of vote in such States is, in all cases, by the majority, their vote counting one. The course which Virginia has resolved to take is in violation of this plain and fundamental rule, and destructive of the foundation on which the whole structure of the State rights doctrine is reared.

I hold it, in the next place, to be an indispensable principle, that the Convention should be so constituted as to give to each State, in the nomination of a candidate, the same relative weight, which the Constitution secures to it in the election of the President, making due allowance for its relative party strength. By the election I mean the whole—the eventual choice when it goes into the House of Representatives, as well as the primary vote in the electoral College. The one is as much a part of the election as the other, the two make the whole. The adoption of the one in the Convention which framed the Constitution, depended on the adoption of the other. Neither could possibly have been adopted alone. The two were the result of compromise between the larger and smaller States, after a long and doubtful struggle, which threatened the loss of the Constitution itself. The object of giving to the smaller States an equality with the larger in the eventual choice of the House, was to counterpoise the preponderance of the larger in the electoral college. Without this, the smaller would have voted against the whole provision, and its rejection would have been the consequence. Even as it stands, Delaware voted against it. In confirmation of what I state, I refer to Mr. Madison's report of the proceedings of the Convention.

Having stated what I mean by the election, it will require but a few words to explain my reasons for the principles I

have laid down. They are few and simple, and rest on the ground, that the nomination is, in reality, the election if concurred in, as far as the party is concerned. It is so intended to be. The leading reason assigned for making it, is to prevent a division of the party, and thereby prevent the election from going into the House, where the smaller States would have the advantage intended to be secured to them by the Convention, by being placed on an equality with the larger. Such being the intended object and effect, I now submit to every candid mind whether the Convention ought not to be so constituted as to compensate, in the nomination, for the important advantage in the election, which the smaller States would surrender by going into a convention? Would it not be unfair, a palpable want of good faith and subversive of the compromise of the Constitution, to withhold it? Or, if demanded, would it be short of an insult to refuse it? Can it be thought that the smaller States are so debased and absorbed in the party politics of the day, as to permit themselves to be indirectly stripped of a right, which their high-minded and patriotic ancestors held so dear, as even to prefer the loss of the Constitution itself, rather than surrender it. I object, then, to the proposed Convention in this connection, because it makes no compensation to the smaller States, for the surrender of this unquestionable and important constitutional right. Instead of that, its advocates peremptorily and indignantly refuse any, and treat with scorn every attempt to secure it. Some have gone even so far as to deny that the eventual choice of the House constitutes any portion of the election, and to manifest open hostility against the provisions of the Constitution which contain it!

If there was no other objection, the one under consideration would be insuperable with me. I differ utterly from the advocates of the proposed Convention in reference to this provision. I regard it as one of the first importance, not

because I desire the election to go into the House, but because I believe it to be an indispensable means, in the hands of the smaller States, of preserving their just and constitutional weight in the Presidential election, and through that, in the Executive Department and the Government itself, which I believe to be essential to the preservation of our sublime federal system. I regard the adjustment of the relative weight of the States, in the Government, to be the fundamental compromise of the Constitution, and that on which our political system depends. Its adjustment constituted the great difficulty in forming the Constitution. The principle on which it was finally effected was, that while due concession should be made to population, a provision should be also made, in some form, to preserve the original equality of the States in every department of the Government. The principle was easily carried out in constituting the legislative department, by preserving the equality of the States in one branch (the Senate), and conceding to population its full preponderance in the other. But the great and difficult task of reducing it to practice was in the Executive Department, at the head of which there is but a single officer. So great was it, that it occupied the attention of the Convention from time to time, during the whole session, and was very near causing a failure at last. It would have been an easy task to constitute that department either on the principle of the equality of the States in the Government, or that of population. To combine the two, in the election of a single officer, was quite a different affair; but however difficult, it had to be performed at the hazard of losing the Constitution.

It was finally accomplished by giving to the larger States nearly the same preponderance in the electoral college, as they have in the House, and to the smaller, in the event of a choice by the House, the same equality they possess in the Senate; thus following closely the analogy of the Legisla-

tive Department. To make it as close as possible, it was at first proposed to give the eventual choice to the Senate, instead of the House, but it was altered and the present provision adopted, for reasons which did not affect the principle.

It was believed by the framers, the practical operation of the provision would be, that the electoral college in which the influence of the larger States preponderates, would nominate, and that the House, voting by States, where their equality is preserved, would elect who should be the President. To give it that operation in practice, the provision, as it originally stood in the Convention, was that each elector should vote for two individuals, without discriminating which should be President or Vice-President; and if no one had a majority of the whole votes, then out of the five highest, the House voting by States, should elect one, and the person not elected, having the highest number of votes, should be Vice-President. It has been since altered, so that the electors should designate which should be President and which Vice-President; and the selection of the House was limited to the three highest. It is manifest that, if this provision of the Constitution had been left to operate by itself, without the intervention of caucuses, or party conventions between the people and the election, that the practical operation would have been such as I have stated, and such as was clearly intended by the framers of the Constitution.

The object intended is important. The preservation of the relative weight of the States, as established by the Constitution in all the Departments, is necessary to the success and duration of our system of Government; but it may be doubted, whether the provision adopted to effect it in the Executive Department is not too refined for the strong, and I may add, corrupt passions, which the Presidential election will ever excite. Certain it is, that if the practice of nominating candidates for the Presidency by Conventions, con-

stituted as is proposed, shall become the established usage, it will utterly defeat the intention of the framers of the Constitution, and must be followed by a radical and dangerous change, not only in the Executive Department, but in the Government itself.

This danger was early foreseen, and to avoid it, some of the wisest and most experienced statesmen of former days so strongly objected to Congressional caucuses to nominate candidates for the Presidency, that they never could be induced to attend them; among these it will be sufficient to name Mr. Macon and Mr. Lowndes. Others, believing that this provision of the Constitution was too refined for practice, were solicitous to amend it, but without impairing the influence of the smaller States in the election. Among these I rank myself. With that object, resolutions were introduced, in 1828, in the Senate by Col. Benton, and in the House by Mr. McDuffie, providing for districting the States and for referring the election back to the people, in case there should be no choice, to elect one from the two highest candidates. The principle which the amendment proposed, was to give a fair compensation to the smaller States for the surrender of their advantage in the eventual choice by the House, and at the same time to make the mode of electing the President more strictly in conformity with the principles of our popular institutions, and less liable to corruption than the existing provision. They received the general support of the party, but were objected to by a few, as not being a full equivalent to the smaller States. The principle embraced is identical with that on which you proposed to constitute the Baltimore Convention, but which has been so dictatorially objected to by some who then took so prominent a part in its favor. If you have not succeeded, there is at least some consolation in reflecting that, if others have since changed, you now stand where you then did, in the purer and better days of the party. I was in favor of it then, as I am now, not because

I consider the amendment proposed by resolutions as perfect, theoretically, as the existing provisions of the Constitution, but because I believe it would, in practice, more certainly accomplish what the framers of the Constitution intended. But while the provision stands as it does, I would regard myself as little short of a traitor to that sacred instrument, should I give my assent, directly or indirectly, to any practice which would have the effect of divesting the smaller States of the due weight which it secures to them in the Presidential election:—And here let me add, that, as objectionable as I think a Congressional caucus for nominating a President, it is, in my opinion, far less so than a Convention constituted as is proposed. The former had many things to recommend it. Its members, consisting of Senators and Representatives, were the immediate organs of the State Legislatures or the people, were, for the most part, of high character, standing and talents. They voted per capita, and what is very important, they represented fairly the relative strength of the respective States. In all these important particulars, it was all that could be desired for a nominating body, and formed a striking contrast to the proposed Convention, and yet, it could not be borne by the people in the then purer days of the Republic. I, acting with General Jackson and most of the leaders of the party at that time, contributed to put it down, because we believed it to be liable to be acted on and influenced by the patronage of the Government—an objection far more applicable to a Convention constituted as the one proposed, than to a Congressional caucus. Far, however, was it from my intention, in aiding to put that down, to substitute in its place what I regard as a hundred times more objectionable in every point of view. Indeed, if there must be an intermediate body between the people and the election, unknown to the Constitution, it may be well questioned whether a better than the old plan of a Congressional caucus can be devised.

stituted as is proposed, shall become the established usage, it will utterly defeat the intention of the framers of the Constitution, and must be followed by a radical and dangerous change, not only in the Executive Department, but in the Government itself.

This danger was early foreseen, and to avoid it, some of the wisest and most experienced statesmen of former days so strongly objected to Congressional caucuses to nominate candidates for the Presidency, that they never could be induced to attend them; among these it will be sufficient to name Mr. Macon and Mr. Lowndes. Others, believing that this provision of the Constitution was too refined for practice, were solicitous to amend it, but without impairing the influence of the smaller States in the election. Among these I rank myself. With that object, resolutions were introduced, in 1828, in the Senate by Col. Benton, and in the House by Mr. McDuffie, providing for districting the States and for referring the election back to the people, in case there should be no choice, to elect one from the two highest candidates. The principle which the amendment proposed, was to give a fair compensation to the smaller States for the surrender of their advantage in the eventual choice by the House, and at the same time to make the mode of electing the President more strictly in conformity with the principles of our popular institutions, and less liable to corruption than the existing provision. They received the general support of the party, but were objected to by a few, as not being a full equivalent to the smaller States. The principle embraced is identical with that on which you proposed to constitute the Baltimore Convention, but which has been so dictatorially objected to by some who then took so prominent a part in its favor. If you have not succeeded, there is at least some consolation in reflecting that, if others have since changed, you now stand where you then did, in the purer and better days of the party. I was in favor of it then, as I am now, not because

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In taking the ground I have, in favor of maintaining the right secured to the smaller States by the compromises of the Constitution, I am actuated by no partisan feeling or desire to conciliate their good opinion. If the case was reversed, and the rights of the larger, instead of the smaller, were invaded, I would, with equal readiness and firmness, stand up in their defence. I am the partisan of neither one nor the other, but simply a supporter of the Constitution, and what I believe to be just and fair. I regard the Constitution as the only ark of safety for all; and I believe that, in defending it, I defend the interest and safety of each and all—the greater, as well as the smaller—the States invading the rights of others, as well as the States whose rights are invaded.

I have laid down the principle on which I rest the objection in question, with the limitation, that the relative weight of the States should be maintained, making due allowance for their relative party strength. The propriety of the limitation is so apparent, that but a few words, in illustration, will be required. The Convention is a party Convention, and professedly intended to take the sense of the party, which cannot be done fairly, if States having but little party strength are put on an equality with those which have much. If that were done, the result might be, that a small portion of the party from States the least sound politically, and which could give but little support in Congress, might select the candidate, and make the President, against a great majority of the soundest, and on which the President and his administration would have to rely for support. All this is clearly too unfair and improper to be denied. There may be a great difficulty in applying a remedy in a Convention, but I do not feel myself called upon to say how it can be done, or by what standard the relative party strength of the respective States should be determined: perhaps the best would be their relative strength in Congress at the time. In

laying down the principle, I added the limitation for the sake of accuracy, and to show how imperfectly the party must be represented, when it is overlooked. I see no provision in the proposed Convention to meet it.

But, in order to realize how the Convention will operate, it will be necessary to view the combined effects of the objections which I have made. Thus viewed, it will be found, that a Convention so constituted tends irresistibly to centralization—centralization of the control over the Presidential election in the hands of a few of the central, large States at first, and finally, in political managers, office holders and office seekers; or to express it differently, in that portion of the community who live, or expect to live, on the Government, in contradistinction to the great mass, who expect to live on their own means or their honest industry; and who maintain the Government, and politically speaking, are, emphatically, the people.

That such would be the case may be inferred from the fact, that it would afford the means to some six or seven States lying contiguous and not far from the centre of the Union, to control the nomination, and through that the election, by concentrating their united votes in the Convention. Give them the power of doing so, and it would not long lie dormant. What may be done by combination, where the temptation is so great, will be sure ere long to be done. To combine and conquer, is no less true as a maxim, where power is concerned, than to "divide and conquer." Nothing is better established, than that the desire for power can bring together and unite the most discordant materials.

But the tendency to centralization will not stop there. The appointment of delegates en masse by State Conventions, would tend at the same time, and even with greater force, to centralize this control in the hands of the few who make politics a trade. The farther the Convention is removed from the people, the more certainly the control over it will be

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placed in the hands of the interested few; and when removed three or four degrees, as has been shown it will be, where the appointment is by State Conventions, the power of the people will cease, and the seekers of Executive favor will become supreme. At that stage, an active, trained and combined corps will be formed in the party whose whole time and attention will be directed to politics. It will be their sole business. Into their hands the appointments of delegates in all the stages will fall, and they will take special care that none but themselves or their humble and obedient dependants shall be appointed. The central and State Conventions will be filled by the most experienced and cunning, and, after nominating the President, they will take good care to divide the patronage and offices, both of the General and State Governments, among themselves and their dependants. But, why say *will ?*—Is it not *already the case ?* Have there not been many instances of State Conventions being filled by office holders and office seekers, who, after making the nomination, have divided the offices in the State among themselves and their partisans, and joined in recommending to the candidate whom they had just nominated, to appoint them to the offices to which they have been respectively allotted ? If such be the case in the infancy of the system, it must end, if such conventions should become the established usage, in the President's nominating his successor. When it comes to that, it will not be long before the sword will take the place of the Constitution.

Such are my objections to the mode in which the proposed Convention is to be constituted, and my reasons for entertaining them. They are such that I cannot refuse to obey them without renouncing the principles which I have often avowed in public and private, and which have guided me through the whole course of my public life.

In coming to this conclusion, I have not passed over, without careful examination, the reasons assigned by its ad-

vocates for constituting the Convention as they propose. They have not diminished the force of my objections. I propose to notice the most prominent.

That which they have urged with the greatest confidence, is, that each State has a right to appoint delegates as she pleases. I meet it, by utterly denying that there is any such right. That each State has the right to act as it pleases in whatever relates to itself exclusively, no one will deny; but it is a perfectly novel doctrine, that any State has such a right, when she comes to act in concert with others in reference to what concerns the whole. In such cases it is the plainest dictate of common sense, that whatever affects the whole should be regulated by the mutual consent of all, and not by the discretion of each. That the appointment of delegates to the proposed Convention is a case of this description, I trust I have conclusively shown. I have, I also trust, shown more; that the supposed right is perfectly deceptive; for while it claims for each State the right to appoint delegates as it pleases, it in reality gives the larger States the right to dictate how the others shall appoint. If, for example, the Empire State, as it is called, adopts the mode of appointing (as she has) which will concentrate her whole strength, what discretion would she leave to others, if they go into Convention, but to appoint as she has appointed, or to be ruled by her? It is, then, neither more nor less than a claim to dictate, under the garb of a right; and such its exercise has proved in the present case. It has left no option, but to conform to her course, or be overruled, or refuse to go into the Convention.

I regret this, because I sincerely desire to preserve the harmony of the party. I had strong hope that the rally, after the defeat of 1840, would be exclusively on principle. The hope was greatly strengthened by the truly republican stand taken at the extra session, and the earlier portion of the succeeding regular session. During that period of rigid

adherence to principle, perfect harmony pervaded the ranks of the party. I beheld it with joy. I believed the moment highly favorable for the thorough reformation of the Government, and the restoration of the Constitution. To the republican party, I looked for the accomplishment of this great work: and I accordingly felt the deepest solicitude, that the stand taken, and the harmony which existed, should be preserved. In order that it should, I made up my mind to waive the objection, which I have long entertained, to any intermediate body, unknown to the Constitution, between the people and the election of the President, in the hope that the proposed Convention would be so constituted, that I might, consistently with my principles, give it my support. In this I have been disappointed, and being so, I am compelled to decide as I have done. The same motives which impelled me to separate from the administration of Gen. Jackson, in the plenitude of its power, and to come to the rescue of Mr. Van Buren's at its greatest depression, compels me now to withhold my name from the proposed Convention.

Having now assigned my reasons for refusing to permit my name to go before the Baltimore Convention, it rests with you who have placed it before the people, and assented to abide by a Convention fairly constituted, to determine what course you will pursue.

Be your decision what it may I shall be content. But I regard it as due to the occasion, to you and myself, to declare that under no circumstances whatever, shall I support any candidate, who is opposed to free trade, and in favor of the protective policy, or whose prominent and influential friends and supporters are. I hold the policy to be another name for a system of monopoly and plunder, and to be thoroughly anti-republican and federal in its character. I also hold that, so long as the duties are so laid as to be, in fact, bounties to one portion of the community, while they operate

as oppressive taxes on the other, there can be no hope that the Government can be reformed, or that its expenditures will be reduced to the proper standard.

Were I, with the evidence before me, to say otherwise of my course, it would be, practically, to declare that I regard the protective policy to be an open question, so far as the party is concerned; which I would consider, on my part, a virtual abandonment of the cause of Free Trade. That can never be. I have done and suffered too much for it, when its friends were few and feeble, to abandon it now—now, when the auspices every where, on this and the other side of the Atlantic, proclaim the approaching downfall of protection, and the permanent triumph of Free Trade. I, who upheld it against monopoly and plunder, in the worst of times, and braved the menaces of Administration and Opposition, when backed but by a single State,—will not—cannot abandon the glorious cause now, when its banner waves in proud triumph over the metropolis of the commercial world. No, I shall maintain immovably the ground I have so long occupied, until I have witnessed its great and final victory, if it shall please the Disposer of Events to spare my life so long. It will be, indeed, *a victory*—the harbinger of peace to the world, and a new and brighter and higher civilization.

Much less, still, can I give my support to any candidate who shall give his aid or countenance to the agitation of abolition in Congress or elsewhere; or whose prominent and influential friends and supporters shall. I doubt the sincerity of any man, who declares he is no abolitionist, whilst, at the same time, he aids or countenances the agitation of the question, be his pretext what it may. If we have a right to our slaves, we have the right to hold them in peace and quiet. If the Constitution guarantees the one, it guarantees the other; and if it forbids the one from being attacked, it equally forbids the other. Indeed, the one stands to the

other as means to an end, and is so avowed by the abolitionists; and on the plainest principles of morals, if the end be prohibited, the means of effecting it also are. Of the two, I regard the deluded fanatic far less guilty and dangerous than he, who for political or party purposes, aids or countenances him in what he knows is intended to do that which he acknowledges to be forbidden by the Constitution.

It is time that an end should be put to this system of plunder and agitation. They have been borne long enough. They are kindred and hostile measures, as far, at least, as one portion of the Union is concerned. While the tariff takes from us the proceeds of our labor, abolition strikes at the labor itself. The one robs us of our income, while the other aims at destroying the source from which that income is derived. It is impossible for us to stand patiently much longer under this double operation, without being impoverished and ruined. JOHN C. CALHOUN.

Feb. 1844.

LETTER

In relation to the mode of appointing Electors of President and Vice-President.

FORT HILL, *Nov.* 1846.

GENTLEMEN:—I am in the receipt of your note of the 14th ult., in which you expressed a desire to have my views in relation to the proposed change in our State Constitution, in reference to the election of the President and Vice-President. In compliance with your request, I herewith enclose a communication, in which they are briefly sketched. To have done full justice, in reference to the many and important questions involved in the subject, would have made any communication too prolix.

I have given it the present shape, rather than that of a

formal letter in reply to your note, because it left me at liberty to arrange my views in conformity to the order which the subject required.

With great respect, I am, &c., &c., &c.

J. C. CALHOUN.

Messrs. JAMES L. ORR, WILLIAM SLOAN, A. EVINS, and F. W. SYMMES.

LETTER.

It would seem, from the public prints, that a large majority of those who are disposed to change the present mode of appointing Electors of President and Vice-President of the United States are in favor of a general ticket, in lieu of the present mode of appointing them by the Legislature. They rest their opposition to the latter, and support of the former, on the broad principle that all power belongs to the people; that they should exercise it directly, without the intervention of any intermediate agency, whenever they can properly do so; and that, whenever they can so exercise it, it would be an act of usurpation, on the part of the Government, to withhold it.

From this, they conclude that the power of appointing Electors should be given to the people directly, and that the mode of appointing should be to elect them by a general ticket. Those, on the contrary, who are opposed to the proposed change, or the mode proposed to be substituted in lieu of the present, admit the principle, but deny that it would give the appointment to the people to elect them by a general ticket, or that, if it would, they could properly exercise it in this case.

The difference, then, between them, is reduced to two questions: Would the adoption of the general ticket give the power to the people, in reality, to appoint Electors? And, if it would, is this a case in which it could be properly exercised? On their decision, it is manifest, the propriety of adopting the general ticket must depend. If it should

appear, on investigation, that it would, not in form only, but in truth, give the power directly to the people, and that they might exercise it, without disturbing, or injuriously affecting the State in its federal or interior relations, then it might, with propriety, be adopted. But if the contrary should appear in either of the cases, then it could not. Thus far there can be no difference of opinion.

As one of the people, taking the profoundest interest in whatever may touch the liberty or prosperity of the State, I have investigated these important questions with the greatest care and deliberation, for the guidance of my own course, and have come to the conclusion adverse to the general ticket, in reference to both questions. The investigation has made a deep impression on me, that, so far from giving the power to the people, it would be the most effectual way that could be devised of divesting them of it, and transferring it to party managers and cliques; and if it were possible to overcome that objection, it ought not still to be adopted, because it would deeply disturb and injuriously affect the State in its federal and interior relations. It now remains, in compliance with your request, to state the reasons which have brought me to these conclusions, which I shall next proceed to do, without further remarks.

The first and radical objection to a general ticket is, that, where many are to select many, especially over a large extent of country, it does not, in fact, constitute an election, but a mere delusion, undeserving the name. The reason is, in the first place, that it is impossible for the great body of voters to be guided by their individual knowledge in selecting the candidates, either from personal acquaintance or reputation, which is indispensable to that exercise of judgment in making a selection necessary to constitute an election. And in the next, admitting it to be possible, and that the mass of voters could be guided by their individual choice in making the selection, the scattering of the votes would be so great that

the result, as to who would have the plurality of votes, would be a mere accident, and no indication of the voice of the State. Take our own State for illustration. It is entitled, at present, to appoint nine Electors; and its present number of legal voters may be estimated, without pretending to precision, at 50,000, scattered over a surface, say of 30,000 square miles. In an election by a general ticket, each voter votes for the whole number to be elected. Now, I hold it to be impossible, with all the intelligence of our people, for the great mass of them to form a ticket from their own knowledge, either personally or by reputation, of nine persons to be Electors, duly distributed over its various parts, who may be fairly considered, separately, as representing the voice of the several portions in which they may reside, or, jointly, the voice of the whole State. Indeed, I might take a far more restricted position, and affirm with truth, not only that the great mass of voters have not the knowledge to make out such a ticket for themselves, but that even the most intelligent and best informed would be at a loss to do it.

But waiving this difficulty, and admitting that they have sufficient intelligence to make out, each, a satisfactory ticket for himself, the other objection, not less difficult, would remain to be surmounted—that is, the scattering would be so great, that the result, as to who might receive a plurality of votes and be elected, would be a mere accident, and no indication of the voice of the State. The diversity of opinion as to the qualification and suitableness, would be as great almost as the number of voters. Few tickets would have the same names on them, and the great body of the State would be disappointed and dissatisfied with the result.

It would be impossible for such a state of things long to continue. The first consequence would be, that a few prominent and influential individuals would enter into a secret concert to control the election, which need not be very extensive, when the scattering would be so great. The next would

be for others to enter into like concert to defeat them ; and finally there would grow out of this state of things two parties, with all the usual party machinery of caucus, conventions, cliques, and managers, to control the election. The whole would be put into active operation every four years, on the approach of the Presidential election, and each party would make out a full ticket by what would be called a State Convention, and every voter, whether he approve of it or not, would have to vote for one or the other, or to throw away his vote on a ticket formed without concert, and which would have no chance of success.

It is thus, by the operation of causes growing out of the very nature of a general ticket, it would, if it should be adopted, end in delusion. Instead of giving the election directly to the people, as its supporters assume, it would divest them of it, and place it under the control of intermediate and irresponsible cliques and political managers, as certainly as it is adopted. This ever has and must be its result' and by laws as uniform and certain in the moral world as gravitation is in the physical.

But, setting aside this objection, and assuming that the great mass of the voters of the State are sufficiently intelligent and well informed, each to form a ticket for himself, and that their votes could always be sufficiently concentrated, without the intervention of party machinery, to secure a majority of the votes for the nine Electors, there would still remain an insuperable reason against adopting it, because, as stated, it would disturb and injuriously affect the State both in its federal and interior relations. To be more explicit,—it would not be just or fair, regarding the State in its federal relations, between its two great divisions, the upper and lower country ; in that, regarded in its interior relations, it would be calculated to disturb and endanger the compromise, as established by the Constitution between them, as I shall next proceed to show.

Before entering on the discussion of this portion of the subject, it will be proper to premise that our State is divided, by a well-defined line, into two great portions or divisions, which are strongly distinguished by their geographical features, the character of their productions and population, and the origin of their inhabitants and manner of settlement.

Of these, one extends from the sea-coast to the falls of the great rivers, and is called the lower country; and the other extends thence to the mountains, and is called the upper country.

They constitute not only the two great geographical, but also the two great political divisions of the State, on which its political fabric rests.

Passing over the other features which distinguish them, there are two, which, from their important bearing on the points under consideration, require particular notice. I refer to the great excess of the slave population of the one, compared with the other, and the difference in the origin of their inhabitants and manner of settlement. They both have had great influence in forming and modifying its constitution and laws, and placing the two divisions in the political relations in which they stand to each other, as will appear in the sequel. With these remarks, I shall now proceed to make good the position, that the adoption of a general ticket would not be just or fair between them, regarding the State in its federal relations.

The Federal Constitution, in reference to Presidential Electors, provides that each State shall appoint, in such manner as the Legislature thereof shall direct, a number equal to the whole number of Senators and Representatives to which the State may be entitled in Congress. It also provides that the Representatives shall be apportioned among the several States of the Union according to their respective numbers, which shall be determined by adding to the whole

number of free persons, including those bound to serve for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

It follows, from these provisions, that the federal numbers of the slaveholding States, and consequently their relative weight in the House of Representaives and the Electoral College, and through them in the Federal Government, depend more or less on their respective slave population. That of this State depends on it more than any other, because she has the greatest number, in proportion, of that description of population. Its federal number by the present census is 463,582, of which the free population makes 267,360, and its slave population 196,222. Its aggregate federal number, divided between the lower and the upper country, would give to the former 246,180, and to the latter 217,402, an excess to the lower over the upper in the weight of the State in the Federal Government. But their respective weight is very unequally affected by their slave population, in consequence of its very unequal distribution between the two divisions. Of the 196,222 which the slave population adds to the federal weight of the State, the lower division adds 129,814, while the upper adds but 66,408 ; being two to one on the part of the former. The case is the reverse in reference to the number (267,360) which the free population adds. Of this, the lower division adds but 116,366, against 150,994 which the upper adds. These estimates are, throughout, based on districts: all lying in the portion of the State below the falls of the rivers, wholly or principally, are included in the lower division ; and those above, in like manner, in the upper.

Now, as the voters consist entirely of the free population, and as the number of voters in the respective divisions is probably very nearly in proportion to the irrespective free population, it is manifest, should the general ticket be adopted, that the upper division, which gives the State less

weight in the Federal Government than the lower, would have decidedly the power of controlling the appointment of Electors, in consequence of having a decided majority of voters.

That a mode of appointing which would lead to such a result, would be neither fair nor just towards the lower division, no one, who has any regard to equity or justice, will deny. If I do not greatly mistake, the upper country has too deep a sense of both to wish it, even if it had the power; and if it had, and should attempt to exercise it, the lower has too much spirit to acquiesce in it. But, thanks to the justice and wisdom of our State Constitution, neither of the divisions has the power to encroach on the just rights of the other. It has secured to each the power to protect itself; so that neither can oppress or injure the other, should it desire it. If, then, the one or the other should suffer by the acts of the government of the State, the fault will be its own—its want of sufficient intelligence to understand its rights and interests, or sufficient spirit to defend them. To show how this has been done, and how the adoption of the general ticket would disturb and endanger the compromise by which it has been effected, remains next to be discussed. Its discussion will require a brief preliminary sketch of the origin and settlement of the State, as far as they have a bearing on the establishing the compromise between the two divisions, with the causes which led to it, and its character, and the effect on the politics of the State.

Our State was first settled on the coast by emigrants, principally from England, but with no inconsiderable intermixture of Huguenots from France. As the former were, for the most part, of the Church of England, the tier of counties (now called districts) settled by them along the coast, were divided into parishes; and they were made the foundation of the political organization of the colony, and since the Revolution, of that portion of the State.

The portion of the State along the falls of the rivers

and back to the mountains had a very different origin and settlement. Its settlement commenced long after, at a period little anterior to the war of the Revolution; and consisted principally of emigrants who followed the course of the mountains from Pennsylvania, Maryland, Virginia and North Carolina. They had very little connection or intercourse, for a long time, with the old settlement on the coast; and the whole region they occupied remained almost without any political organization until but a short period before the Revolution. It was, indeed, very imperfectly organized, and slightly connected with the original settlement, and possessed very little political power until the adoption of the present Constitution in 1790; although its white population even then outnumbered the original settlement on the coast. Its adoption greatly enlarged its political power, and much more intimately united the two divisions; but it still left every department of the Government under the control of the lower country, by retaining a decided majority in both branches of the Legislature, which, as that had the power of appointing the Governor and Judges, gave it a control over the Executive and Judiciary, and of course, the whole Government.

It was impossible, with the increasing population, wealth and intelligence of the other portion of the State, that such a state of things should long continue without leading to discontent and conflict.

The former soon showed itself, and a conflict commenced within a few years after the adoption of the Constitution, which continued with increasing violence until 1807, when the agitation and disorder had so increased, that sensible and patriotic men, on both sides, became satisfied that the conflict must be closed. It was accordingly terminated, not by surrender on either side, but by a compromise, which placed the two parties on grounds of perfect political equality,—the only way by which such conflicts ever can be satisfactorily

and permanently adjusted. The composition of the Senate, as it stood, consisting of one from each election district, remained undisturbed, which left the old original settlement on the coast in possession of the control of that branch of the Legislature, by reason of its parish representation. To give an equal control in the House of Representatives to the more newly settled portion in the interior, was a more difficult task. It was accomplished by allotting to that branch of the Legislature 124 members, of which 62 were assigned to the white population, and 62 to taxation. A census was directed to be taken every ten years, and an estimate to be made of the aggregate amount of taxes paid by each election district for the period of ten preceding years. The number of Representatives allowed to each district to be apportioned to the two, with the proviso that each district should have at least one, and if there should be a deficiency in the number, one to be added to the districts having the greatest fractions, until the whole should make 124. By this complex arrangement, not only an equal weight was secured to the more recently settled portion of the State in the House of Representatives, but an effectual provision made against unequal and oppressive taxes, by making taxation an element in the representation of the House. Its effect is to increase the number of Representatives from the portion of the State unduly taxed, just in proportion to the excess of its taxes, and thereby increase in the same proportion its weight in the House, under the next apportionment. These just and wise provisions, by requiring the concert and joint consent of the two portions of the State in enacting laws, placed them on grounds of perfect equality in the Legislature; and, as it retained the power of electing the Governor and Judges, in every department of the Government. Each having thus a negative on the other, on all the acts of the Government, possesses the power of protecting itself against the injustice and oppression of the other. Thus the Government ceased

to be the exclusive organ of one portion of the State, not by becoming the like organ of the other, but the concurrent and joint organ of both, and thereby the true and faithful representative of the whole State.

This fortunate compromise terminated the conflict which had so long divided and agitated the State. So completely did it close it, that from its adoption until this time, a period of almost forty years, all local divisions and parties growing out of them have entirely ceased. The upper and lower country are no longer named for political discord and agitation, and the State has been blessed with a unanimity of sentiment and freedom from parties altogether without example in any other member of the Union. Nor has its effect been less happy in reference to her federal than her internal relations. To it she owes, in a great measure, her weight and high character and standing in the Union, which, as inconsiderable as she is in extent of territory and population, places her on a level in influence with the largest and most populous of its members.

Destroy this just and wise compromise by giving to either an undue preponderance in the government of the State, and all this would be reversed. Discord, distraction, parties and factions, with all their machinery and demoralizing consequences, would follow, and sink her far below the level she now occupies. That the general ticket would give such undue preponderance, and in the end destroy this happy compromise, I shall next proceed to show.

I have already shown that it would give an undue and unfair preponderance to the upper division of the State in its federal relations. But it has been said, it would be restricted to them without extending its influence to the government of the State, and giving either of its great political divisions undue preponderance in it. Those who make this assertion overlook, I must think, the absorbing character of power. Nothing is more so. Whenever it acquires a

preponderance, be it ever so small, it will slowly and imperceptibly commence the process of absorption, and continue until it absorbs the whole power, unless efficient measures be taken in time to counteract it. In this case there are several circumstances which would greatly increase and accelerate this process, which I shall now proceed to show.

Its adoption would introduce the principle of taking the sense of the State, as a whole, by the mere numerical majority, without regard to its two great natural and political divisions, and the conflicting interests growing out of them—a principle heretofore utterly unknown to the State, either in its federal or interior relations, or in any of the political changes through which it has passed. But of all the forms of power in a popular government, it is by far the most absorbing in its character, and difficult to counteract. It is indeed but the absolute and despotic form of popular government, just as much as the absolute and despotic power of one man or a few is of the monarchical and aristocratical. Now, all experience shows that there is a constant and strong tendency in all constitutional governments to their absolute and despotic form, and in none more so than in popular constitutional governments like that of this State, resting on the principle of the concurrent majority, as all such governments must. Indeed, nothing short of a high degree of intelligence and constant vigilance can counteract this tendency, as the history of all such governments proves. Our own, both federal and State, already gives strong indications of it; so much so, that it has become a fixed opinion in a large portion of the Union, that the mere numerical majority of the whole has the absolute and indefeasible right to govern.

But, as absorbing as this power is of itself, the nature of the election in connection with which it would be introduced would greatly increase its force. Of all our elections, whether of the Federal or State Government, the Presiden-

tial excites by far the greatest interest, and exerts the greatest influence over the public mind, because it greatly exceeds all others in importance. Such being the case, the place of electors is sought by citizens of influence and distinction, both on account of its prominence, and the influence it is calculated to have with the President and his administration in the distribution of the honors and emoluments of the Federal Government, should the candidate voted for succeed in being elected.

These considerations could not fail to induce those who aspire to so prominent and desirable a station to court popular favor, and especially that of the division of the State, which might have the greatest number of votes and control of the election, and that, in too many cases, even at the sacrifice of their own, should they happen to reside in the other. This would increase the preponderance of that division to a degree that would be strongly felt in the Legislature of the State, and the election of the Governor and other prominent officers, to the increase of its influence, and the decrease of the influence of the other in the same proportion.

But as strong as is the tendency of the numerical majority of itself to absorb power without reference to the form of taking it, and as much as it would be increased in consequence of its connection with the Presidential election, its increase from the form of that election, should it be by general ticket, would exceed both of the others combined. Its vast increase from this source would be derived from a consequence which, as already shown, would follow its adoption ; that is, that it would introduce the caucus system, with all its train of party divisions and party managers, with their cliques and machinery. This system once introduced, although for the particular purpose of nominating electors, would not be slow in extending its jurisdiction far beyond, by bringing under it the nomination of the Governor, Lieu-

tenant-Governor, Senators in Congress, Judges, and all other officers elected by the Legislature. But just in the same proportion that it might extend its jurisdiction, would the power of the numerical majority, of which it is but the exponent, be extended. When to this it is added that the reasons assigned for appointing electors by a general ticket equally apply to the election of the Governor, Lieutenant-Governor, and Judges, in the same manner, it is not to be doubted, that, if it should be adopted for the one, it would be ultimately for the others. Indeed, it is already urged that the two first should be so elected. By the time that is done, the compromise which places the two divisions of the State in the relation of perfect political equality, will have been utterly destroyed, and the powers of the State and government concentrated in that which has the greatest number of voters. It would be an entire and disastrous political revolution. Instead of the present excellent constitutional government, which makes ours, in its true meaning, a republic or commonwealth, that is the government of the whole, we should have an absolute and despotic democracy; the government of one portion of the State over the other; the one that has the greatest number of votes over that which has the fewest. No greater curse could befall the State, including both divisions—the one which would acquire the power, and the other which would lose it. It would corrupt the one and debase the other.

But we are told, in order to induce us to take a step so fatal, that all the other States of the Union have adopted the general ticket for the appointment of electors. It is true that such is the case, but it is equally so that its adoption was not the result of unbiased and deliberate preference. It was not so originally. I have not at hand the means of ascertaining the mode adopted at first by the several States, but unless I greatly mistake, I do not err in asserting that the great majority appointed their electors by districts or

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Conventions en masse, composed of delegates appointed in all cases as far as I am informed, by county, or district conventions; and in some cases, if not misinformed, these again composed of delegates appointed by still smaller divisions, or a few interested individuals. Instead, then, of being directly, or fresh from the people, the delegates to the Baltimore Convention will be the delegates of delegates; and, of course, removed, in all cases, at least three, if not four degrees from the people. At each successive remove, the voice of the people will become less full and distinct, until, at last, it will be so faint and imperfect as not to be audible. To drop metaphor, I hold it impossible to form a scheme more perfectly calculated to annihilate the control of the people over the Presidential election, and vest it in those who make politics a trade, and who live, or expect to live on the Government.

In this connection, I object not less strongly to the mode in which Virginia has resolved her delegates shall vote. With all due respect, I must say, I can imagine nothing more directly in conflict with the principles of our federal system of government, or, to use a broader expression, the principles on which all confederate communities have ever been united. I hazard nothing in saying, that there is not an instance in our political history, from the meeting of the first Revolutionary Congress to the present day, of the delegates of any State voting by majority, and counting per capita; nor do I believe an instance of the kind can be found in the history of any confederated community. There is, indeed, something monstrous in the idea of giving the majority the right of impressing the vote of the minority into its service, and counting them as its own. The plain rule, that which has ever prevailed, and which conforms to the dictates of common sense, is, that where a State votes as a State, by a majority of its delegates, the votes count one, be they few or many, or the State large or small. On the contrary, where the votes of all the delegates are counted,

they vote individually and independently, each for himself counting one. And it is to be noted, that wherever this latter mode of voting exists among confederate States, it is in all cases founded on compact, to which the consent of each State is required. In the absence of compact, the invariable mode of vote in such States is, in all cases, by the majority, their vote counting one. The course which Virginia has resolved to take is in violation of this plain and fundamental rule, and destructive of the foundation on which the whole structure of the State rights doctrine is reared.

I hold it, in the next place, to be an indispensable principle, that the Convention should be so constituted as to give to each State, in the nomination of a candidate, the same relative weight, which the Constitution secures to it in the election of the President, making due allowance for its relative party strength. By the election I mean the whole—the eventual choice when it goes into the House of Representatives, as well as the primary vote in the electoral College. The one is as much a part of the election as the other, the two make the whole. The adoption of the one in the Convention which framed the Constitution, depended on the adoption of the other. Neither could possibly have been adopted alone. The two were the result of compromise between the larger and smaller States, after a long and doubtful struggle, which threatened the loss of the Constitution itself. The object of giving to the smaller States an equality with the larger in the eventual choice of the House, was to counterpoise the preponderance of the larger in the electoral college. Without this, the smaller would have voted against the whole provision, and its rejection would have been the consequence. Even as it stands, Delaware voted against it. In confirmation of what I state, I refer to Mr. Madison's report of the proceedings of the Convention.

Having stated what I mean by the election, it will require but a few words to explain my reasons for the principles I

have laid down. They are few and simple, and rest on the ground, that the nomination is, in reality, the election if concurred in, as far as the party is concerned. It is so intended to be. The leading reason assigned for making it, is to prevent a division of the party, and thereby prevent the election from going into the House, where the smaller States would have the advantage intended to be secured to them by the Convention, by being placed on an equality with the larger. Such being the intended object and effect, I now submit to every candid mind whether the Convention ought not to be so constituted as to compensate, in the nomination, for the important advantage in the election, which the smaller States would surrender by going into a convention? Would it not be unfair, a palpable want of good faith and subversive of the compromise of the Constitution, to withhold it? Or, if demanded, would it be short of an insult to refuse it? Can it be thought that the smaller States are so debased and absorbed in the party politics of the day, as to permit themselves to be indirectly stripped of a right, which their high-minded and patriotic ancestors held so dear, as even to prefer the loss of the Constitution itself, rather than surrender it. I object, then, to the proposed Convention in this connection, because it makes no compensation to the smaller States, for the surrender of this unquestionable and important constitutional right. Instead of that, its advocates peremptorily and indignantly refuse any, and treat with scorn every attempt to secure it. Some have gone even so far as to deny that the eventual choice of the House constitutes any portion of the election, and to manifest open hostility against the provisions of the Constitution which contain it!

If there was no other objection, the one under consideration would be insuperable with me. I differ utterly from the advocates of the proposed Convention in reference to this provision. I regard it as one of the first importance, not

because I desire the election to go into the House, but because I believe it to be an indispensable means, in the hands of the smaller States, of preserving their just and constitutional weight in the Presidential election, and through that, in the Executive Department and the Government itself, which I believe to be essential to the preservation of our sublime federal system. I regard the adjustment of the relative weight of the States, in the Government, to be the fundamental compromise of the Constitution, and that on which our political system depends. Its adjustment constituted the great difficulty in forming the Constitution. The principle on which it was finally effected was, that while due concession should be made to population, a provision should be also made, in some form, to preserve the original equality of the States in every department of the Government. The principle was easily carried out in constituting the legislative department, by preserving the equality of the States in one branch (the Senate), and conceding to population its full preponderance in the other. But the great and difficult task of reducing it to practice was in the Executive Department, at the head of which there is but a single officer. So great was it, that it occupied the attention of the Convention from time to time, during the whole session, and was very near causing a failure at last. It would have been an easy task to constitute that department either on the principle of the equality of the States in the Government, or that of population. To combine the two, in the election of a single officer, was quite a different affair; but however difficult, it had to be performed at the hazard of losing the Constitution.

It was finally accomplished by giving to the larger States nearly the same preponderance in the electoral college, as they have in the House, and to the smaller, in the event of a choice by the House, the same equality they possess in the Senate; thus following closely the analogy of the Legisla-

tive Department. To make it as close as possible, it was at first proposed to give the eventual choice to the Senate, instead of the House, but it was altered and the present provision adopted, for reasons which did not affect the principle.

It was believed by the framers, the practical operation of the provision would be, that the electoral college in which the influence of the larger States preponderates, would nominate, and that the House, voting by States, where their equality is preserved, would elect who should be the President. To give it that operation in practice, the provision, as it originally stood in the Convention, was that each elector should vote for two individuals, without discriminating which should be President or Vice-President; and if no one had a majority of the whole votes, then out of the five highest, the House voting by States, should elect one, and the person not elected, having the highest number of votes, should be Vice-President. It has been since altered, so that the electors should designate which should be President and which Vice-President; and the selection of the House was limited to the three highest. It is manifest that, if this provision of the Constitution had been left to operate by itself, without the intervention of caucuses, or party conventions between the people and the election, that the practical operation would have been such as I have stated, and such as was clearly intended by the framers of the Constitution.

The object intended is important. The preservation of the relative weight of the States, as established by the Constitution in all the Departments, is necessary to the success and duration of our system of Government; but it may be doubted, whether the provision adopted to effect it in the Executive Department is not too refined for the strong, and I may add, corrupt passions, which the Presidential election will ever excite. Certain it is, that if the practice of nominating candidates for the Presidency by Conventions, con-

stituted as is proposed, shall become the established usage, it will utterly defeat the intention of the framers of the Constitution, and must be followed by a radical and dangerous change, not only in the Executive Department, but in the Government itself.

This danger was early foreseen, and to avoid it, some of the wisest and most experienced statesmen of former days so strongly objected to Congressional caucuses to nominate candidates for the Presidency, that they never could be induced to attend them; among these it will be sufficient to name Mr. Macon and Mr. Lowndes. Others, believing that this provision of the Constitution was too refined for practice, were solicitous to amend it, but without impairing the influence of the smaller States in the election. Among these I rank myself. With that object, resolutions were introduced, in 1828, in the Senate by Col. Benton, and in the House by Mr. McDuffie, providing for districting the States and for referring the election back to the people, in case there should be no choice, to elect one from the two highest candidates. The principle which the amendment proposed, was to give a fair compensation to the smaller States for the surrender of their advantage in the eventual choice by the House, and at the same time to make the mode of electing the President more strictly in conformity with the principles of our popular institutions, and less liable to corruption than the existing provision. They received the general support of the party, but were objected to by a few, as not being a full equivalent to the smaller States. The principle embraced is identical with that on which you proposed to constitute the Baltimore Convention, but which has been so dictatorially objected to by some who then took so prominent a part in its favor. If you have not succeeded, there is at least some consolation in reflecting that, if others have since changed, you now stand where you then did, in the purer and better days of the party. I was in favor of it then, as I am now, not because

I consider the amendment proposed by resolutions as perfect, theoretically, as the existing provisions of the Constitution, but because I believe it would, in practice, more certainly accomplish what the framers of the Constitution intended. But while the provision stands as it does, I would regard myself as little short of a traitor to that sacred instrument, should I give my assent, directly or indirectly, to any practice which would have the effect of divesting the smaller States of the due weight which it secures to them in the Presidential election:—And here let me add, that, as objectionable as I think a Congressional caucus for nominating a President, it is, in my opinion, far less so than a Convention constituted as is proposed. The former had many things to recommend it. Its members, consisting of Senators and Representatives, were the immediate organs of the State Legislatures or the people, were, for the most part, of high character, standing and talents. They voted per capita, and what is very important, they represented fairly the relative strength of the respective States. In all these important particulars, it was all that could be desired for a nominating body, and formed a striking contrast to the proposed Convention, and yet, it could not be borne by the people in the then purer days of the Republic. I, acting with General Jackson and most of the leaders of the party at that time, contributed to put it down, because we believed it to be liable to be acted on and influenced by the patronage of the Government—an objection far more applicable to a Convention constituted as the one proposed, than to a Congressional caucus. Far, however, was it from my intention, in aiding to put that down, to substitute in its place what I regard as a hundred times more objectionable in every point of view. Indeed, if there must be an intermediate body between the people and the election, unknown to the Constitution, it may be well questioned whether a better than the old plan of a Congressional caucus can be devised.

stituted as is proposed, shall become the established usage, it will utterly defeat the intention of the framers of the Constitution, and must be followed by a radical and dangerous change, not only in the Executive Department, but in the Government itself.

This danger was early foreseen, and to avoid it, some of the wisest and most experienced statesmen of former days so strongly objected to Congressional caucuses to nominate candidates for the Presidency, that they never could be induced to attend them; among these it will be sufficient to name Mr. Macon and Mr. Lowndes. Others, believing that this provision of the Constitution was too refined for practice, were solicitous to amend it, but without impairing the influence of the smaller States in the election. Among these I rank myself. With that object, resolutions were introduced, in 1828, in the Senate by Col. Benton, and in the House by Mr. McDuffie, providing for districting the States and for referring the election back to the people, in case there should be no choice, to elect one from the two highest candidates. The principle which the amendment proposed, was to give a fair compensation to the smaller States for the surrender of their advantage in the eventual choice by the House, and at the same time to make the mode of electing the President more strictly in conformity with the principles of our popular institutions, and less liable to corruption than the existing provision. They received the general support of the party, but were objected to by a few, as not being a full equivalent to the smaller States. The principle embraced is identical with that on which you proposed to constitute the Baltimore Convention, but which has been so dictatorially objected to by some who then took so prominent a part in its favor. If you have not succeeded, there is at least some consolation in reflecting that, if others have since changed, you now stand where you then did, in the purer and better days of the party. I was in favor of it then, as I am now, not because

I consider the amendment proposed by resolutions as perfect, theoretically, as the existing provisions of the Constitution, but because I believe it would, in practice, more certainly accomplish what the framers of the Constitution intended. But while the provision stands as it does, I would regard myself as little short of a traitor to that sacred instrument, should I give my assent, directly or indirectly, to any practice which would have the effect of divesting the smaller States of the due weight which it secures to them in the Presidential election:—And here let me add, that, as objectionable as I think a Congressional caucus for nominating a President, it is, in my opinion, far less so than a Convention constituted as is proposed. The former had many things to recommend it. Its members, consisting of Senators and Representatives, were the immediate organs of the State Legislatures or the people, were, for the most part, of high character, standing and talents. They voted per capita, and what is very important, they represented fairly the relative strength of the respective States. In all these important particulars, it was all that could be desired for a nominating body, and formed a striking contrast to the proposed Convention, and yet, it could not be borne by the people in the then purer days of the Republic. I, acting with General Jackson and most of the leaders of the party at that time, contributed to put it down, because we believed it to be liable to be acted on and influenced by the patronage of the Government—an objection far more applicable to a Convention constituted as the one proposed, than to a Congressional caucus. Far, however, was it from my intention, in aiding to put that down, to substitute in its place what I regard as a hundred times more objectionable in every point of view. Indeed, if there must be an intermediate body between the people and the election, unknown to the Constitution, it may be well questioned whether a better than the old plan of a Congressional caucus can be devised.

In taking the ground I have, in favor of maintaining the right secured to the smaller States by the compromises of the Constitution, I am actuated by no partisan feeling or desire to conciliate their good opinion. If the case was reversed, and the rights of the larger, instead of the smaller, were invaded, I would, with equal readiness and firmness, stand up in their defence. I am the partisan of neither one nor the other, but simply a supporter of the Constitution, and what I believe to be just and fair. I regard the Constitution as the only ark of safety for all; and I believe that, in defending it, I defend the interest and safety of each and all—the greater, as well as the smaller—the States invading the rights of others, as well as the States whose rights are invaded.

I have laid down the principle on which I rest the objection in question, with the limitation, that the relative weight of the States should be maintained, making due allowance for their relative party strength. The propriety of the limitation is so apparent, that but a few words, in illustration, will be required. The Convention is a party Convention, and professedly intended to take the sense of the party, which cannot be done fairly, if States having but little party strength are put on an equality with those which have much. If that were done, the result might be, that a small portion of the party from States the least sound politically, and which could give but little support in Congress, might select the candidate, and make the President, against a great majority of the soundest, and on which the President and his administration would have to rely for support. All this is clearly too unfair and improper to be denied. There may be a great difficulty in applying a remedy in a Convention, but I do not feel myself called upon to say how it can be done, or by what standard the relative party strength of the respective States should be determined: perhaps the best would be their relative strength in Congress at the time. In

laying down the principle, I added the limitation for the sake of accuracy, and to show how imperfectly the party must be represented, when it is overlooked. I see no provision in the proposed Convention to meet it.

But, in order to realize how the Convention will operate, it will be necessary to view the combined effects of the objections which I have made. Thus viewed, it will be found, that a Convention so constituted tends irresistibly to centralization—centralization of the control over the Presidential election in the hands of a few of the central, large States at first, and finally, in political managers, office holders and office seekers ; or to express it differently, in that portion of the community who live, or expect to live, on the Government, in contradistinction to the great mass, who expect to live on their own means or their honest industry ; and who maintain the Government, and politically speaking, are, emphatically, the people.

That such would be the case may be inferred from the fact, that it would afford the means to some six or seven States lying contiguous and not far from the centre of the Union, to control the nomination, and through that the election, by concentrating their united votes in the Convention. Give them the power of doing so, and it would not long lie dormant. What may be done by combination, where the temptation is so great, will be sure ere long to be done. To combine and conquer, is no less true as a maxim, where power is concerned, than to "divide and conquer." Nothing is better established, than that the desire for power can bring together and unite the most discordant materials.

But the tendency to centralization will not stop there. The appointment of delegates en masse by State Conventions, would tend at the same time, and even with greater force, to centralize this control in the hands of the few who make politics a trade. The farther the Convention is removed from the people, the more certainly the control over it will be

placed in the hands of the interested few; and when removed three or four degrees, as has been shown it will be, where the appointment is by State Conventions, the power of the people will cease, and the seekers of Executive favor will become supreme. At that stage, an active, trained and combined corps will be formed in the party whose whole time and attention will be directed to politics. It will be their sole business. Into their hands the appointments of delegates in all the stages will fall, and they will take special care that none but themselves or their humble and obedient dependants shall be appointed. The central and State Conventions will be filled by the most experienced and cunning, and, after nominating the President, they will take good care to divide the patronage and offices, both of the General and State Governments, among themselves and their dependants. But, why say *will ?*—Is it not *already the case ?* Have there not been many instances of State Conventions being filled by office holders and office seekers, who, after making the nomination, have divided the offices in the State among themselves and their partisans, and joined in recommending to the candidate whom they had just nominated, to appoint them to the offices to which they have been respectively allotted ? If such be the case in the infancy of the system, it must end, if such conventions should become the established usage, in the President's nominating his successor. When it comes to that, it will not be long before the sword will take the place of the Constitution.

Such are my objections to the mode in which the proposed Convention is to be constituted, and my reasons for entertaining them. They are such that I cannot refuse to obey them without renouncing the principles which I have often avowed in public and private, and which have guided me through the whole course of my public life.

In coming to this conclusion, I have not passed over, without careful examination, the reasons assigned by its ad-

vocates for constituting the Convention as they propose. They have not diminished the force of my objections. I propose to notice the most prominent.

That which they have urged with the greatest confidence, is, that each State has a right to appoint delegates as she pleases. I meet it, by utterly denying that there is any such right. That each State has the right to act as it pleases in whatever relates to itself exclusively, no one will deny; but it is a perfectly novel doctrine, that any State has such a right, when she comes to act in concert with others in reference to what concerns the whole. In such cases it is the plainest dictate of common sense, that whatever affects the whole should be regulated by the mutual consent of all, and not by the discretion of each. That the appointment of delegates to the proposed Convention is a case of this description, I trust I have conclusively shown. I have, I also trust, shown more; that the supposed right is perfectly deceptive; for while it claims for each State the right to appoint delegates as it pleases, it in reality gives the larger States the right to dictate how the others shall appoint. If, for example, the Empire State, as it is called, adopts the mode of appointing (as she has) which will concentrate her whole strength, what discretion would she leave to others, if they go into Convention, but to appoint as she has appointed, or to be ruled by her? It is, then, neither more nor less than a claim to dictate, under the garb of a right; and such its exercise has proved in the present case. It has left no option, but to conform to her course, or be overruled, or refuse to go into the Convention.

I regret this, because I sincerely desire to preserve the harmony of the party. I had strong hope that the rally, after the defeat of 1840, would be exclusively on principle. The hope was greatly strengthened by the truly republican stand taken at the extra session, and the earlier portion of the succeeding regular session. During that period of rigid

adherence to principle, perfect harmony pervaded the ranks of the party. I beheld it with joy. I believed the moment highly favorable for the thorough reformation of the Government, and the restoration of the Constitution. To the republican party, I looked for the accomplishment of this great work: and I accordingly felt the deepest solicitude, that the stand taken, and the harmony which existed, should be preserved. In order that it should, I made up my mind to waive the objection, which I have long entertained, to any intermediate body, unknown to the Constitution, between the people and the election of the President, in the hope that the proposed Convention would be so constituted, that I might, consistently with my principles, give it my support. In this I have been disappointed, and being so, I am compelled to decide as I have done. The same motives which impelled me to separate from the administration of Gen. Jackson, in the plenitude of its power, and to come to the rescue of Mr. Van Buren's at its greatest depression, compels me now to withhold my name from the proposed Convention.

Having now assigned my reasons for refusing to permit my name to go before the Baltimore Convention, it rests with you who have placed it before the people, and assented to abide by a Convention fairly constituted, to determine what course you will pursue.

Be your decision what it may I shall be content. But I regard it as due to the occasion, to you and myself, to declare that under no circumstances whatever, shall I support any candidate, who is opposed to free trade, and in favor of the protective policy, or whose prominent and influential friends and supporters are. I hold the policy to be another name for a system of monopoly and plunder, and to be thoroughly anti-republican and federal in its character. I also hold that, so long as the duties are so laid as to be, in fact, bounties to one portion of the community, while they operate

as oppressive taxes on the other, there can be no hope that the Government can be reformed, or that its expenditures will be reduced to the proper standard.

Were I, with the evidence before me, to say otherwise of my course, it would be, practically, to declare that I regard the protective policy to be an open question, so far as the party is concerned; which I would consider, on my part, a virtual abandonment of the cause of Free Trade. That can never be. I have done and suffered too much for it, when its friends were few and feeble, to abandon it now—now, when the auspices every where, on this and the other side of the Atlantic, proclaim the approaching downfall of protection, and the permanent triumph of Free Trade. I, who upheld it against monopoly and plunder, in the worst of times, and braved the menaces of Administration and Opposition, when backed but by a single State,—will not—cannot abandon the glorious cause now, when its banner waves in proud triumph over the metropolis of the commercial world. No, I shall maintain immovably the ground I have so long occupied, until I have witnessed its great and final victory, if it shall please the Disposer of Events to spare my life so long. It will be, indeed, *a victory*—the harbinger of peace to the world, and a new and brighter and higher civilization.

Much less, still, can I give my support to any candidate who shall give his aid or countenance to the agitation of abolition in Congress or elsewhere; or whose prominent and influential friends and supporters shall. I doubt the sincerity of any man, who declares he is no abolitionist, whilst, at the same time, he aids or countenances the agitation of the question, be his pretext what it may. If we have a right to our slaves, we have the right to hold them in peace and quiet. If the Constitution guarantees the one, it guarantees the other; and if it forbids the one from being attacked, it equally forbids the other. Indeed, the one stands to the

other as means to an end, and is so avowed by the abolitionists; and on the plainest principles of morals, if the end be prohibited, the means of effecting it also are. Of the two, I regard the deluded fanatic far less guilty and dangerous than he, who for political or party purposes, aids or countenances him in what he knows is intended to do that which he acknowledges to be forbidden by the Constitution.

It is time that an end should be put to this system of plunder and agitation. They have been borne long enough. They are kindred and hostile measures, as far, at least, as one portion of the Union is concerned. While the tariff takes from us the proceeds of our labor, abolition strikes at the labor itself. The one robs us of our income, while the other aims at destroying the source from which that income is derived. It is impossible for us to stand patiently much longer under this double operation, without being impoverished and ruined. JOHN C. CALHOUN.

Feb. 1844.

LETTER

In relation to the mode of appointing Electors of President and Vice-President.

FORT HILL, *Nov.* 1846.

GENTLEMEN:—I am in the receipt of your note of the 14th ult., in which you expressed a desire to have my views in relation to the proposed change in our State Constitution, in reference to the election of the President and Vice-President. In compliance with your request, I herewith enclose a communication, in which they are briefly sketched. To have done full justice, in reference to the many and important questions involved in the subject, would have made any communication too prolix.

I have given it the present shape, rather than that of a

formal letter in reply to your note, because it left me at liberty to arrange my views in conformity to the order which the subject required.

With great respect, I am, &c., &c., &c.

J. C. CALHOUN.

Messrs. JAMES L. ORR, WILLIAM SLOAN, A. EVINS, and F. W. SYMMES.

LETTER.

It would seem, from the public prints, that a large majority of those who are disposed to change the present mode of appointing Electors of President and Vice-President of the United States are in favor of a general ticket, in lieu of the present mode of appointing them by the Legislature. They rest their opposition to the latter, and support of the former, on the broad principle that all power belongs to the people; that they should exercise it directly, without the intervention of any intermediate agency, whenever they can properly do so; and that, whenever they can so exercise it, it would be an act of usurpation, on the part of the Government, to withhold it.

From this, they conclude that the power of appointing Electors should be given to the people directly, and that the mode of appointing should be to elect them by a general ticket. Those, on the contrary, who are opposed to the proposed change, or the mode proposed to be substituted in lieu of the present, admit the principle, but deny that it would give the appointment to the people to elect them by a general ticket, or that, if it would, they could properly exercise it in this case.

The difference, then, between them, is reduced to two questions: Would the adoption of the general ticket give the power to the people, in reality, to appoint Electors? And, if it would, is this a case in which it could be properly exercised? On their decision, it is manifest, the propriety of adopting the general ticket must depend. If it should

appear, on investigation, that it would, not in form only, but in truth, give the power directly to the people, and that they might exercise it, without disturbing, or injuriously affecting the State in its federal or interior relations, then it might, with propriety, be adopted. But if the contrary should appear in either of the cases, then it could not. Thus far there can be no difference of opinion.

As one of the people, taking the profoundest interest in whatever may touch the liberty or prosperity of the State, I have investigated these important questions with the greatest care and deliberation, for the guidance of my own course, and have come to the conclusion adverse to the general ticket, in reference to both questions. The investigation has made a deep impression on me, that, so far from giving the power to the people, it would be the most effectual way that could be devised of divesting them of it, and transferring it to party managers and cliques; and if it were possible to overcome that objection, it ought not still to be adopted, because it would deeply disturb and injuriously affect the State in its federal and interior relations. It now remains, in compliance with your request, to state the reasons which have brought me to these conclusions, which I shall next proceed to do, without further remarks.

The first and radical objection to a general ticket is, that, where many are to select many, especially over a large extent of country, it does not, in fact, constitute an election, but a mere delusion, undeserving the name. The reason is, in the first place, that it is impossible for the great body of voters to be guided by their individual knowledge in selecting the candidates, either from personal acquaintance or reputation, which is indispensable to that exercise of judgment in making a selection necessary to constitute an election. And in the next, admitting it to be possible, and that the mass of voters could be guided by their individual choice in making the selection, the scattering of the votes would be so great that

the result, as to who would have the plurality of votes, would be a mere accident, and no indication of the voice of the State. Take our own State for illustration. It is entitled, at present, to appoint nine Electors; and its present number of legal voters may be estimated, without pretending to precision, at 50,000, scattered over a surface, say of 30,000 square miles. In an election by a general ticket, each voter votes for the whole number to be elected. Now, I hold it to be impossible, with all the intelligence of our people, for the great mass of them to form a ticket from their own knowledge, either personally or by reputation, of nine persons to be Electors, duly distributed over its various parts, who may be fairly considered, separately, as representing the voice of the several portions in which they may reside, or, jointly, the voice of the whole State. Indeed, I might take a far more restricted position, and affirm with truth, not only that the great mass of voters have not the knowledge to make out such a ticket for themselves, but that even the most intelligent and best informed would be at a loss to do it.

But waiving this difficulty, and admitting that they have sufficient intelligence to make out, each, a satisfactory ticket for himself, the other objection, not less difficult, would remain to be surmounted—that is, the scattering would be so great, that the result, as to who might receive a plurality of votes and be elected, would be a mere accident, and no indication of the voice of the State. The diversity of opinion as to the qualification and suitableness, would be as great almost as the number of voters. Few tickets would have the same names on them, and the great body of the State would be disappointed and dissatisfied with the result.

It would be impossible for such a state of things long to continue. The first consequence would be, that a few prominent and influential individuals would enter into a secret concert to control the election, which need not be very extensive, when the scattering would be so great. The next would

be for others to enter into like concert to defeat them ; and finally there would grow out of this state of things two parties, with all the usual party machinery of caucus, conventions, cliques, and managers, to control the election. The whole would be put into active operation every four years, on the approach of the Presidential election, and each party would make out a full ticket by what would be called a State Convention, and every voter, whether he approve of it or not, would have to vote for one or the other, or to throw away his vote on a ticket formed without concert, and which would have no chance of success.

It is thus, by the operation of causes growing out of the very nature of a general ticket, it would, if it should be adopted, end in delusion. Instead of giving the election directly to the people, as its supporters assume, it would divest them of it, and place it under the control of intermediate and irresponsible cliques and political managers, as certainly as it is adopted. This ever has and must be its result' and by laws as uniform and certain in the moral world as gravitation is in the physical.

But, setting aside this objection, and assuming that the great mass of the voters of the State are sufficiently intelligent and well informed, each to form a ticket for himself, and that their votes could always be sufficiently concentrated, without the intervention of party machinery, to secure a majority of the votes for the nine Electors, there would still remain an insuperable reason against adopting it, because, as stated, it would disturb and injuriously affect the State both in its federal and interior relations. To be more explicit,—it would not be just or fair, regarding the State in its federal relations, between its two great divisions, the upper and lower country ; in that, regarded in its interior relations, it would be calculated to disturb and endanger the compromise, as established by the Constitution between them, as I shall next proceed to show.

Before entering on the discussion of this portion of the subject, it will be proper to premise that our State is divided, by a well-defined line, into two great portions or divisions, which are strongly distinguished by their geographical features, the character of their productions and population, and the origin of their inhabitants and manner of settlement.

Of these, one extends from the sea-coast to the falls of the great rivers, and is called the lower country; and the other extends thence to the mountains, and is called the upper country.

They constitute not only the two great geographical, but also the two great political divisions of the State, on which its political fabric rests.

Passing over the other features which distinguish them, there are two, which, from their important bearing on the points under consideration, require particular notice. I refer to the great excess of the slave population of the one, compared with the other, and the difference in the origin of their inhabitants and manner of settlement. They both have had great influence in forming and modifying its constitution and laws, and placing the two divisions in the political relations in which they stand to each other, as will appear in the sequel. With these remarks, I shall now proceed to make good the position, that the adoption of a general ticket would not be just or fair between them, regarding the State in its federal relations.

The Federal Constitution, in reference to Presidential Electors, provides that each State shall appoint, in such manner as the Legislature thereof shall direct, a number equal to the whole number of Senators and Representatives to which the State may be entitled in Congress. It also provides that the Representatives shall be apportioned among the several States of the Union according to their respective numbers, which shall be determined by adding to the whole

country. That involved your independence ; but this your all, not excepting your safety." There were, besides, some slight modifications, almost wholly of a verbal character.

The original is now before the public ; and I would take occasion to remark, that if the journal of the votes contains mistakes, those who have been unintentionally misreported can, and doubtless will, inform me of the fact, and it shall be corrected.

You will please publish the annexed letter of Governor Metcalfe, whose official statement places before the public the facts in relation to the retention of Mr. Clayton on the committee who had asked to be excused. I have thus given the facts connected with this whole transaction.

A. W. VENABLE.

WASHINGTON, *Feb.* 2, 1849.

DEAR SIR :—I am in the receipt of your note of this instant, in which you request me to answer the following questions :

Was not the paragraph in my address, relating to the Oregon bill of the last session, struck out with my consent the evening the report was made, whilst it was under consideration, and before it was recommitted ?

Was not the substitute, as it stands in the address, made with my consent, and accepted by me ?

Were not the two sentences in the conclusion, which stated that it was for the North to calculate the value of the Union, struck out with my consent, and by my direction, the same evening, and before the recommitment ?

And were not the subsequent modifications, of any importance, all made with my consent, and under the general declaration made by me in the meeting, that I would consent to any modification coming from those disposed to sign the address which did not affect the truth of its narrative, or materially change its character ?

To all the foregoing questions I answer, yes.

No one was bound to sign the address unless he individually approved of it. The object was to unite on some common ground against aggressions and encroachments on our rights, so far as it might be practicable within the limits above stated. For that purpose, I readily consented to all the modifications proposed which did not go beyond.

Very truly yours, &c., &c., &c.,

J. C. CALHOUN.

Hon. A. W. VENABLE.

FEBRUARY 1, 1849.

DEAR SIR:—At the meeting of the southern members of Congress, on the 15th of January, after the recommitment of the report made by Mr. Calhoun, Mr. Clayton of Delaware and several other gentlemen, members of the committee of fifteen, asked to be excused. You on the next day called on me to fill the vacancies in the committee, and named Mr. Clayton as one who was excused. I told you that Mr. Clayton had not been excused, and was still a member of the committee, and filled up the vacancies made by those who were excused. This is an act of justice to you, as the matter has been misrepresented in the papers. You, as secretary, acted by my direction as chairman; and the journals of the meeting were read on the meeting of the 22d, without exception being taken to this part thereof.

I will add, that I declined to excuse my friend Clayton, under a conviction that no substitute would take his place, and because of my great confidence in his ability to do good, as well as in his patriotism.

THOS. METCALFE, Chairman.

Hon. A. W. VENABLE.

THE ADDRESS.

We, whose names are hereunto annexed, address you in discharge of what we believe to be a solemn duty, on the most important subject ever presented for your consideration. We allude to the conflict between the two great sections of the Union, growing out of a difference of feeling and opinion in reference to the relation existing between the two races, the European and African, which inhabit the southern section, and the acts of aggression and encroachment to which it has led.

The conflict commenced not long after the acknowledgment of our independence, and has gradually increased until it has arrayed the great body of the North against the South on this most vital subject. In the progress of this conflict, aggression has followed aggression, and encroachment encroachment, until they have reached a point when a regard for your peace and safety will not permit us to remain longer silent. The object of this address is to give you a clear, correct, but brief account of the whole series of aggression and encroachments on your rights, with a statement of the dangers to which they expose you. Our object in making it is not to cause excitement, but to put you in full possession of all the facts and circumstances necessary to a full and just conception of a deep-seated disease, which threatens great danger to you and the whole body politic. We act on the impression, that in a popular government like ours, a true conception of the actual character and state of a disease is indispensable to effecting a cure.

We have made it a joint address, because we believe that the magnitude of the subject required that it should assume the most impressive and solemn form.

Not to go further back, the difference of opinion and feeling in reference to the relation between the two races, disclosed itself in the Convention that framed the Constitu-

tion, and constituted one of the geatest difficulties in forming it. After many efforts, it was overcome by a compromise, which provided in the first place, that representatives and direct taxes shall be apportioned among the States according to their respective numbers; and that, in ascertaining the number of each, five slaves shall be estimated as three. In the next, that slaves escaping into States where slavery does not exist, shall not be discharged from servitude, but shall be delivered up on claim of the party to whom their labor or service is due. In the third place, that Congress shall not prohibit the importation of slaves before the year 1808; but a tax not exceeding ten dollars may be imposed on each imported. And finally, that no capitation or direct tax shall be laid, but in proportion to federal numbers; and that no amendment of the Constitution, prior to 1808, shall affect this provision, nor that relating to the importation of slaves.

So satisfactory were these provisions, that the second, relative to the delivering up of fugitive slaves, was adopted unanimously, and all the rest, except the third, relative to the importation of slaves until 1808, with almost equal unanimity. They recognize the existence of slavery, and make a specific provision for its protection where it was supposed to be the most exposed. They go further, and incorporate it, as an important element, in determining the relative weight of the several States in the Government of the Union, and the respective burden they should bear in laying capitation and direct taxes. It was well understood at the time, that without them the Constitution would not have been adopted by the Southern States, and of course that they constituted elements so essential to the system that it never would have existed without them. The Northern States, knowing all this, ratified the Constitution, thereby pledging their faith, in the most solemn manner, sacredly to observe them. How

that faith has been kept and that pledge redeemed we shall next proceed to show.

With few exceptions of no great importance, the South had no cause to complain prior to the year 1819—a year, it is to be feared, destined to mark a train of events, bringing with them many, and great, and fatal disasters, on the country and its institutions. With it commenced the agitating debate on the question of the admission of Missouri into the Union. We shall pass by for the present this question, and others of the same kind, directly growing out of it, and shall proceed to consider the effects of that spirit of discord, which it roused up between the two sections. It first disclosed itself in the North, by hostility to that portion of the Constitution which provides for the delivering up of fugitive slaves In its progress it led to the adoption of hostile acts, intended to render it of non-effect, and with so much success that it may be regarded now as practically expunged from the Constitution. How this has been effected will be next explained.

After a careful examination, truth constrains us to say, that it has been by a clear and palpable evasion of the Constitution. It is impossible for any provision to be more free from ambiguity or doubt. It is in the following words: "No person held to service, or labor, in one State, under the laws thereof, escaping into another State, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due." All is clear. There is not an uncertain or equivocal word to be found in the whole provision. What shall not be done, and what shall be done, are fully and explicitly set forth. The former provides that the fugitive slave shall not be discharged from his servitude by any law or regulation of the State wherein he is found; and the latter, that he shall be delivered up on claim of his owner.

We do not deem it necessary to undertake to refute the sophistry and subterfuges by which so plain a provision of the Constitution has been evaded, and, in effect, annulled. It constitutes an essential part of the constitutional compact, and of course of the supreme law of the land. As such it is binding on all, the Federal and State Governments, the States and the individuals composing them. The sacred obligation of compact, and the solemn injunction of the supreme law, which legislators and judges, both Federal and State, are bound by oath to support, all unite to enforce its fulfilment, according to its plain meaning and true intent. What that meaning and intent are, there was no diversity of opinion in the better days of the Republic, prior to 1819. Congress, State Legislatures, State and Federal Judges and Magistrates, and people, all spontaneously placed the same interpretation on it. During that period none interposed impediments in the way of the owner seeking to recover his fugitive slave; nor did any deny his right to have every proper facility to enforce his claim to have him delivered up. It was then nearly as easy to recover one found in a Northern State, as one found in a neighboring Southern State. But this has passed away, and the provision is defunct, except perhaps in two States.*

When we take into consideration the importance and clearness of this provision, the evasion by which it has been set aside may fairly be regarded as one of the most fatal blows ever received by the South and the Union. This cannot be more concisely and correctly stated, than it has been by two of the learned judges of the Supreme Court of the United States. In one of his decisions† Judge Story said: "Historically it is well known that the object of this clause was to secure to the citizens of the slaveholding States the

* Indiana and Illinois.

† The case of Prigg *vs.* the Commonwealth of Pennsylvania.

complete right and title of ownership in their slaves, as property, in every State of the Union, into which they might escape, from the State wherein they were held in servitude." "The full recognition of this right and title was indispensable to the security of this species of property, in all the slaveholding States, and, indeed, was so vital to the preservation of their interests and institutions, that it cannot be doubted, that it constituted a fundamental article without the adoption of which the Union would not have been formed. Its true design was to guard against the doctrines and principles prevalent in the non-slaveholding States, by preventing them from intermeddling with, or restricting, or abolishing the rights of the owners of slaves."

Again: "The clause was therefore of the last importance to the safety and security of the Southern States, and could not be surrendered by them without endangering their whole property in slaves. The clause was accordingly adopted in the Constitution by the unanimous consent of the framers of it—a proof at once of its intrinsic and practical necessity."

Again: "The clause manifestly contemplates the existence of a positive unqualified right on the part of the owner of the slave, which no State law or regulation can in any way regulate, control, qualify, or restrain."

The opinion of the other learned judges was not less emphatic as to the importance of this provision and the unquestionable right of the South under it. Judge Baldwin, in charging the jury, said:* "If there are any rights of property which can be enforced, if one citizen have any rights of property which are inviolable under the protection of the supreme law of the State, and the Union, they are those which have been set at nought by some of these defendants. As the owner of property, which he had a perfect right to possess, protect, and take away—as a citizen of a sister State,

* The case of Johnson *vs.* Tompkins and others.

entitled to all the privileges and immunities of citizens of any other States—Mr. Johnson stands before you on ground which cannot be taken from under him—it is the same ground on which the Government itself is based. If the defendants can be justified, we have no longer law or government." Again, after referring more particularly to the provision for delivering up fugitive slaves, he said: "Thus you see, that the foundations of the Government are laid, and rest on the right of property in slaves. The whole structure must fall by disturbing the corner-stone."

These are grave and solemn and admonitory words, from a high source. They confirm all for which the South has ever contended, as to the clearness, importance, and fundamental character of this provision, and the disastrous consequences which would inevitably follow from its violation. But in spite of these solemn warnings, the violation, then commenced, and which they were intended to rebuke, has been full and perfectly consummated. The citizens of the South, in their attempt to recover their slaves, now meet, instead of aid and co-operation, resistance in every form; resistance from hostile acts of legislation, intended to baffle and defeat their claims by all sorts of devices, and by interposing every description of impediment—resistance from judges and magistrates—and finally, when all these fail, from mobs, composed of whites and blacks, which, by threats or force, rescue the fugitive slave from the possession of his rightful owner. The attempt to recover a slave, in most of the Northern States, cannot now be made without the hazard of insult, heavy pecuniary loss, imprisonment, and even of life itself. Already has a worthy citizen of Maryland lost his life* in making an attempt to enforce his claim to a fugitive slave under this provision.

But a provision of the Constitution may be violated indi-

* Mr. Kennedy, of Hagerstown, Maryland.

THE ADDRESS.

We, whose names are hereunto annexed, address you in discharge of what we believe to be a solemn duty, on the most important subject ever presented for your consideration. We allude to the conflict between the two great sections of the Union, growing out of a difference of feeling and opinion in reference to the relation existing between the two races, the European and African, which inhabit the southern section, and the acts of aggression and encroachment to which it has led.

The conflict commenced not long after the acknowledgment of our independence, and has gradually increased until it has arrayed the great body of the North against the South on this most vital subject. In the progress of this conflict, aggression has followed aggression, and encroachment encroachment, until they have reached a point when a regard for your peace and safety will not permit us to remain longer silent. The object of this address is to give you a clear, correct, but brief account of the whole series of aggression and encroachments on your rights, with a statement of the dangers to which they expose you. Our object in making it is not to cause excitement, but to put you in full possession of all the facts and circumstances necessary to a full and just conception of a deep-seated disease, which threatens great danger to you and the whole body politic. We act on the impression, that in a popular government like ours, a true conception of the actual character and state of a disease is indispensable to effecting a cure.

We have made it a joint address, because we believe that the magnitude of the subject required that it should assume the most impressive and solemn form.

Not to go further back, the difference of opinion and feeling in reference to the relation between the two races, disclosed itself in the Convention that framed the Constitu-

There remains to be noticed another class of aggressive acts of a kindred character, but which instead of striking at an express and specific provision of the Constitution, aims directly at destroying the relation between the two races at the South, by means subversive in their tendency of one of the ends for which the Constitution was established. We refer to the systematic agitation of the question by the Abolitionists, which, commencing about 1835, is still continued in all possible forms. Their avowed intention is to bring about a state of things that will force emancipation on the South. To unite the North in fixed hostility to slavery in the South, and to excite discontent among the slaves with their condition, are among the means employed to effect it. With a view to bring about the former, every means are resorted to in order to render the South, and the relation between the two races there, odious and hateful to the North. For this purpose societies and newspapers are everywhere established, debating clubs opened, lecturers employed, pamphlets and other publications, pictures and petitions to Congress, resorted to, and directed to that single point, regardless of truth or decency; while the circulation of incendiary publications in the South, the agitation of the subject of abolition in Congress, and the employment of emissaries are relied on to excite discontent among the slaves. This agitation, and the use of these means, have been continued with more or less activity for a series of years, not without doing much towards effecting the object intended. We regard both object and means to be aggressive and dangerous to the rights of the South, and subversive, as stated, of one of the ends for which the Constitution was established. Slavery is a domestic institution. It belongs to the States, each for itself to decide, whether it shall be established or not; and if it be established, whether it should be abolished or not. Such being the clear and unquestionable right of the States, it follows necessarily that it would be a flagrant act of

aggression on a State, destructive of its rights, and subversive of its independence, for the Federal Government, or one or more States, or their people, to undertake to force on it the emancipation of its slaves. But it is a sound maxim in politics, as well as law and morals, that no one has a right to do that indirectly which he cannot do directly, and it may be added with equal truth, to aid, or abet, or countenance another in doing it. And yet the Abolitionists of the North, openly avowing their intention, and resorting to the most efficient means for the purpose, have been attempting to bring about a state of things to force the Southern States to emancipate their slaves, without any act on the part of any Northern State to arrest or suppress the means by which they propose to accomplish it. They have been permitted to pursue their object and to use whatever means they please, if without aid or countenance, also without resistance or disapprobation. What gives a deeper shade to the whole affair, is the fact, that one of the means to effect their object, that of exciting disccontent among our slaves, tends directly to subvert what its preamble declares to be one of the ends for which the Constitution was ordained and established: "to insure domestic tranquillity," and that in the only way in which domestic tranquillity is likely ever to be disturbed in the South. Certain it is, that an agitation so systematic—having such an object in view, and sought to be carried into execution by such means—would, between independent nations, constitute just cause of remonstrance by the party against which the aggression was directed, and if not heeded, an appeal to arms for redress. Such being the case where an aggression of the kind takes place among independent nations, how much more aggravated must it be between confederated States, where the Union precludes an appeal to arms, while it affords a medium through which it can operate with vastly increased force and effect? That it would be perverted to such a use, never entered into the imagination

of the generation which formed and adopted the Constitution, and, if it had been supposed it would, it is certain that the South never would have adopted it.

We now return to the question of the admission of Missouri into the Union, and shall proceed to give a brief sketch of the occurrences connected with it, and the consequences to which it has directly led. In the latter part of 1819, the then territory of Missouri applied to Congress, in the usual form, for leave to form a State Constitution and Government, in order to be admitted into the Union. A bill was reported for the purpose, with the usual provisions in such cases. Amendments were offered, having for their object to make it a condition of her admission, that her Constitution should have a provision to prohibit slavery. This brought on the agitating debate, which, with the effects that followed, has done so much to alienate the South and North, and endanger our political institutions. Those who objected to the amendments, rested their opposition on the high grounds of the right of self-government. They claimed that a territory, having reached the period when it is proper for it to form a Constitution and Government for itself, becomes fully vested with all the rights of self-government; and that even the condition imposed on it by the Federal Constitution, relates not to the formation of its Constitution and Government, but its admission into the Union. For that purpose, it provides as a condition, that the Government must be Republican.

They claimed that Congress has no right to add to this condition, and that to assume it would be tantamount to the assumption of the right to make its entire Constitution and Government; as no limitation could be imposed, as to the extent of the right, if it be admitted that it exists at all. Those who supported the amendment denied these grounds, and claimed the right of Congress to impose, at discretion, what conditions it pleased. In this agitating de-

bate, the two sections stood arrayed against each other; the South in favor of the bill without amendment, and the North opposed to it without it. The debate and agitation continued until the session was well advanced; but it became apparent, towards its close, that the people of Missouri were fixed and resolved in their opposition to the proposed condition, and that they would certainly reject it, and adopt a Constitution without it, should the bill pass with the condition. Such being the case, it required no great effort of mind to perceive, that Missouri, once in possession of a Constitution and Government, not simply on paper, but with legislators elected, and officers appointed, to carry them into effect, the grave questions would be presented, whether she was of right a Territory or State; and, if the latter, whether Congress had the right, and, if the right, the power, to abrogate her Constitution, disperse her legislature, and to remand her back to the territorial condition. These were great, and, under the circumstances, fearful questions—too fearful to be met by those who had raised the agitation. From that time the only question was, how to escape from the difficulty. Fortunately, a means was afforded. A Compromise (as it was called) was offered, based on the terms, that the North should cease to oppose the admission of Missouri on the grounds for which the South contended, and that the provisions of the Ordinance of 1787, for the government of the Northwestern Territory, should be applied to all the territory acquired by the United States from France under the treaty of Louisiana lying North of 36° 30′, except the portion lying in the State of Missouri. The Northern members embraced it; and although not originating with them, adopted it as their own. It was forced through Congress by the almost united votes of the North, against a minority consisting almost entirely of members from the Southern States.

Such was the termination of this, the first conflict, under the Constitution, between the two sections, in reference to

slavery in connection with the territories. Many hailed it as a permanent and final adjustment that would prevent the recurrence of similar conflicts; but others, less sanguine, took the opposite and more gloomy view, regarding it as the precursor of a train of events which might rend the Union asunder, and prostrate our political system. One of these was the experienced and sagacious Jefferson. Thus far, time would seem to favor his forebodings. May a returning sense of justice and a protecting Providence, avert their final fulfilment.

For many years the subject of slavery in reference to the territories ceased to agitate the country. Indications, however, connected with the question of annexing Texas, showed clearly that it was ready to break out again, with redoubled violence, on some future occasion. The difference in the case of Texas was adjusted by extending the Missouri compromise line of 36° 30′, from its terminus, on the western boundary of the Louisiana purchase, to the western boundary of Texas. The agitation again ceased for a short period.

The war with Mexico soon followed, and that terminated in the acquisition of New Mexico and Upper California, embracing an area equal to about one half of the entire valley of the Mississippi. If to this we add the portion of Oregon acknowledged to be ours by the recent treaty with England, our whole territory on the Pacific and west of the Rocky Mountains will be found to be in extent but little less than that vast valley. The near prospect of so great an addition rekindled the excitement between the North and South in reference to slavery in its connection with the territories, which has become, since those on the Pacific were acquired, more universal and intense than ever.

The effects have been to widen the difference between the two sections, and to give a more determined and hostile character to their conflict. The North no longer respects

the Missouri compromise line, although adopted by their almost unanimous vote. Instead of compromise, they avow that their determination is to exclude slavery from all the territories of the United States, acquired, or to be acquired; and, of course, to prevent the citizens of the Southern States from emigrating with their property in slaves into any of them. Their object, they allege, is to prevent the extension of slavery, and ours to extend it, thus making the issue between them and us to be the naked question, shall slavery be extended or not? We do not deem it necessary, looking to the object of this address, to examine the question so fully discussed at the last session, whether Congress has the right to exclude the citizens of the South from immigrating with their property into territories belonging to the confederated States of the Union. What we propose in this connection is, to make a few remarks on what the North alleges, erroneously, to be the issue between us and them.

So far from maintaining the doctrine, which the issue implies, we hold that the Federal Government has no right to extend or restrict slavery, no more than to establish or abolish it; nor has it any right whatever to distinguish between the domestic institutions of one State, or section, and another, in order to favor the one and discourage the other. As the federal representative of each and all the States, it is bound to deal out, within the sphere of its powers, equal and exact justice and favor to all. To act otherwise, to undertake to discriminate between the domestic institutions of one and another, would be to act in total subversion of the end for which it was established—to be the common protector and guardian of all. Entertaining these opinions, we ask not, as the North alleges we do, for the extension of slavery. That would make a discrimination in our favor, as unjust and unconstitutional as the discrimination they ask against us in their favor. It is not for them, nor for the Federal Government to determine, whether our domestic in-

stitution is good or bad ; or whether it should be repressed or preserved. It belongs to us, and us only, to decide such questions. What then we do insist on, is, not to extend slavery, but that we shall not be prohibited from immigrating with our property, into the Territories of the United States, because we are slaveholders ; or, in other words, that we shall not on that account be disfranchised of a privilege possessed by all others, citizens and foreigners, without discrimination as to character, profession, or color. All, whether savage, barbarian, or civilized, may freely enter and remain, we only being excluded.

We rest our claim, not only on the high grounds above stated, but also on the solid foundation of right, justice, and equality. The territories immediately in controversy—New Mexico and California—were acquired by the common sacrifice and efforts of all the States, towards which the South contributed far more than her full share of men,* to say nothing of money, and is, of course, on every principle of right, justice, fairness, and equality, entitled to participate fully in the benefits to be derived from their acquisition. But as impregnable as is this ground, there is another not less so. Ours is a Federal Government—a Government in which not individuals, but States, as distinct sovereign com-

* Total number of volunteers from the South—Regiments - 33
Battalions - 14
Companies - 120

Total number of volunteers from the South, 45,640
Total number of volunteers from the North—Regiments - 22
Battalions - 2
Companies - 12

Total number of volunteers from the North, 23,084

Being nearly two on the part of the South to one on the part of the North. But taking into consideration that the population of the North is two thirds greater than the South, the latter has furnished more than three times her due proportion of volunteers.

munities, are the constituents. To them, as members of the Federal Union, the territories belong; and they are hence declared to be territories belonging to the United States. The States, then, are the joint owners. Now it is conceded by all writers on the subject, that in all such Governments their members are all equal—equal in rights and equal in dignity. They also concede that this equality constitutes the basis of such Government, and that it cannot be destroyed without changing their nature and character. To deprive, then, the Southern States and their citizens of their full share in territories declared to belong to them, in common with the other States, would be in derogation of the equality belonging to them as members of a Federal Union, and sink them, from being equals, into a subordinate and dependent condition. Such are the solid and impregnable grounds on which we rest our demand to an equal participation in the territories.

But as solid and impregnable as they are in the eyes of justice and reason, they oppose a feeble resistance to a majority, determined to engross the whole. At the last session of Congress, a bill was passed, establishing a territorial government for Oregon, excluding slavery therefrom. The President gave his sanction to the bill, and sent a special message to Congress assigning his reasons for doing so. These reasons presupposed that the Missouri compromise was to be, and would be, extended west of the Rocky Mountains, to the Pacific Ocean. And the President intimated his intention in his message to veto any future bill that should restrict slavery south of the line of that compromise. Assuming it to have been the purpose and intention of the North to extend the Missouri compromise line as above indicated, the passage of the Oregon bill could only be regarded as evincing the acquiescence of the South in that line. But the developments of the present session of Congress have made it manifest to all, that no such purpose or intention

now exists with the North to any considerable extent. Of the truth of this, we have ample evidence in what has occurred already in the House of Representatives, where the popular feelings are soonest and most intensely felt.

Although Congress has been in session but little more than one month, a greater number of measures of an aggressive character have been introduced, and they more aggravated and dangerous, than have been for years before. And what clearly discloses whence they take their origin, is the fact, that they all relate to the territorial aspect of the subject of slavery, or some other of a nature and character intimately connected with it.

The first of this series of aggressions is a resolution introduced by a member from Massachusetts, the object of which is to repeal all acts which recognize the existence of slavery, or authorize the selling and disposing of slaves in this District. On question of leave to bring in a bill, the votes stood 69 for and 82 against leave. The next was a resolution offered by a member from Ohio, instructing the Committee on Territories to report forthwith bills for excluding slavery from California and New Mexico.* It passed by a vote of 107 to 80. That was followed by a bill introduced by another member from Ohio, to take the votes of the inhabitants of this District, on the question whether slavery within its limits should be abolished.

The bill provided, according to the admission of the mover, that free negroes and slaves should vote. On the question to lay the bill on the table, the votes stood, for 106, against 79. To this succeeded the resolution of a member from New York, in the following words: "Whereas the traffic now prosecuted in this metropolis of the Republic in human beings, as chattels, is contrary to natural justice and the fundamental principles of our political system, and is

* Since reported to the House.

notoriously a reproach to our country, throughout Christendom, and a serious hinderance to the progress of republican liberty among the nations of the earth. Therefore,

"*Resolved*, That the Committee for the District of Columbia be instructed to report a bill, as soon as practicable, prohibiting the slave trade in said District." On the question of adopting the resolution, the votes stood 98 for, and 88 against. He was followed by a member from Illinois, who offered a resolution for abolishing slavery in the Territories, and all places where Congress has exclusive powers of legislation, that is, in all forts, magazines, arsenals, dockyards, and other needful buildings, purchased by Congress with the consent of the Legislature of the State.

This resolution was passed over under the rules of the House without being put to vote.

The votes in favor of all these measures were confined to the members from the Northern States. True, there are some patriotic members from that section who voted against all of them, and whose high sense of justice is duly appreciated; who in the progress of the aggressions upon the South have, by their votes, sustained the guaranties of the Constitution, and of whom we regret to say many have been sacrificed at home by their patriotic course.

We have now brought to a close a narrative of the series of acts of aggression and encroachment, connected with the subject of this address, including those that are consummated and those still in progress. They are numerous, great, and dangerous, and threaten with destruction the greatest and most vital of all the interests and institutions of the South. Indeed, it may be doubted whether there is a single provision, stipulation, or guaranty of the Constitution, intended for the security of the South, that has not been rendered almost perfectly nugatory. It may even be made a serious question, whether the encroachments already made, without the aid of any other, would not, if permitted to operate unchecked, end

in emancipation, and that at no distant day. But be that as it may, it hardly admits of a doubt that, if the aggressions already commenced in the House, and now in progress, should be consummated, such in the end would certainly be the consequence.

Little, in truth, would be left to be done after we have been excluded from all the territories, including those to be hereafter acquired; after slavery is abolished in this District and in the numerous places dispersed all over the South, where Congress has the exclusive right of legislation, and after the other measures proposed are consummated. Every outpost and barrier would be carried, and nothing would be left but to finish the work of abolition at pleasure in the States themselves. This District, and all places over which Congress has exclusive power of legislation, would be asylums for fugitive slaves, where, as soon as they placed their feet, they would become, according to the doctrines of our Northern assailants, free, unless there should be some positive enactments to prevent it.

Under such a state of things the probability is, that emancipation would soon follow, without any final act to abolish slavery. The depressing effects of such measures on the white race at the South, and the hope they would create in the black of a speedy emancipation, would produce a state of feeling inconsistent with the much longer continuance of the existing relations between the two. But be that as it may, it is certain, if emancipation did not follow, as a matter of course, the final act in the States would not be long delayed. The want of constitutional power would oppose a feeble resistance. The great body of the North is united against our peculiar institution. Many believe it to be sinful, and the residue, with inconsiderable exceptions, believe it to be wrong. Such being the case, it would indicate a very superficial knowledge of human nature, to think that, after aiming at abolition, systematically, for so many years,

and pursuing it with such unscrupulous disregard of law and Constitution, that the fanatics who have led the way and forced the great body of the North to follow them, would, when the finishing stroke only remained to be given, voluntarily suspend it, or permit any constitutional scruples or considerations of justice to arrest it. To these may be added an aggression, though not yet commenced, long meditated and threatened: to prohibit what the abolitionists call the internal slave trade, meaning thereby the transfer of slaves from one State to another, from whatever motive done, or however effected. Their object would seem to be to render them worthless by crowding them together where they are, and thus hasten the work of emancipation. There is reason for believing that it will soon follow those now in progress, unless, indeed, some decisive step should be taken in the mean time to arrest the whole.

The question then is, Will the measures of aggression proposed in the House be adopted?

They may not, and probably will not be this session. But when we take into consideration, that there is a majority now in favor of one of them, and a strong minority in favor of the other, so far as the sense of the House has been taken; that there will be in all probability a considerable increase in the next Congress of the vote in favor of them, and that it will be largely increased in the next succeeding Congress under the census to be taken next year, it amounts almost to a certainty that they will be adopted, unless some decisive measure is taken in advance to prevent it.

But, if even these conclusions should prove erroneous—if fanaticism and the love of power should, contrary to their nature, for once respect constitutional barriers, or if the calculations of policy should retard the adoption of these measures, or even defeat them altogether, there would be still left one certain way to accomplish their object, if the determination avowed by the North to monopolize all the territories,

to the exclusion of the South, should be carried into effect. That of itself would, at no distant day, add to the North a sufficient number of States to give her three fourths of the whole; when, under the color of an amendment of the Constitution, she would emancipate our slaves, however opposed it might be to its true intent.

Thus, under every aspect, the result is certain, if aggression be not promptly and decidedly met. How it is to be met, it is for you to decide.

Such then being the case, it would be to insult you to suppose you could hesitate. To destroy the existing relation between the free and servile races at the South would lead to consequences unparalleled in history. They cannot be separated, and cannot live together in peace, or harmony, or to their mutual advantage, except in their present relation. Under any other, wretchedness, and misery, and desolation would overspread the whole South. The example of the British West Indies, as blighting as emancipation has proved to them, furnishes a very faint picture of the calamities it would bring on the South. The circumstances under which it would take place with us, would be entirely different from those which took place with them, and calculated to lead to far more disastrous results. There the Government of the parent country emancipated slaves in her colonial possessions —a Government rich and powerful, and actuated by views of policy (mistaken as they turned out to be), rather than fanaticism. It was besides, disposed to act justly towards the owners, even in the act of emancipating their slaves, and to protect and foster them afterwards. It accordingly appropriated nearly $100,000,000 as a compensation to them for their losses under the act, which sum, although it turned out to be far short of the amount, was thought at the time to be liberal. Since the emancipation, it has kept up a sufficient military and naval force to keep the blacks in awe, and a number of magistrates, and constables, and other civil

officers, to keep order in the towns and on plantations, and enforce respect to their former owners. To a considerable extent these have served as a substitute for the police formerly kept on the plantations by the owners and their overseers, and to preserve the social and political superiority of the white race. But, notwithstanding all this, the British West India possessions are ruined, impoverished, miserable, wretched, and destined probably to be abandoned to the black race.

Very different would be the circumstances under which emancipation would take place with us. If it ever should be effected, it will be through the agency of the Federal Government, controlled by the dominant power of the Northern States of the Confederacy, against the resistance and struggle of the Southern. It can then only be effected by the prostration of the white race; and that would necessarily engender the bitterest feelings of hostility between them and the North. But the reverse would be the case between the blacks of the South and the people of the North. Owing their emancipation to them, they would regard them as friends, guardians, and patrons, and centre, accordingly, all their sympathy in them. The people of the North would not fail to reciprocate and to favor them, instead of the whites. Under the influence of such feelings, and impelled by fanaticism and love of power, they would not stop at emancipation. Another step would be taken—to raise them to a political and social equality with their former owners, by giving them the right of voting and holding public offices under the Federal Government. We see the first step toward it in the bill already alluded to—to vest the free blacks and slaves with the right to vote on the question of emancipation in this District. But when once raised to an equality, they would become the fast political associates of the North, acting and voting with them on all questions, and by this political union between them, holding the white race at the

South in complete subjection. The blacks, and the profligate whites that might unite with them, would become the principal recipients of federal offices and patronage, and would, in consequence, be raised above the whites of the South in the political and social scale. We would, in a word, change conditions with them—a degradation greater than has ever yet fallen to the lot of a free and enlightened people, and one from which we could not escape, should emancipation take place (which it certainly will if not prevented), but by fleeing the homes of ourselves and ancestors, and by abandoning our country to our former slaves, to become the permanent abode of disorder, anarchy, poverty, misery, and wretchedness.

With such a prospect before us, the gravest and most solemn question that ever claimed the attention of a people is presented for your consideration: What is to be done to prevent it? It is a question belonging to you to decide. All we propose is, to give you our opinion.

We, then, are of the opinion that the first and indispensable step, without which nothing can be done, and with which every thing may be, is to be united among yourselves, on this great and most vital question. The want of union and concert in reference to it has brought the South, the Union, and our system of government to their present perilous condition. Instead of placing it above all others, it has been made subordinate, not only to mere questions of policy, but to the preservation of party ties and ensuring of party success. As high as we hold a due respect for these, we hold them subordinate to that and other questions involving our safety and happiness. Until they are so held by the South, the North will not believe that you are in earnest in opposition to their encroachments, and they will continue to follow, one after another, until the work of abolition is finished. To convince them that you are, you must prove by your acts that you hold all other questions subor-

dinate to it. If you become united, and prove yourselves in earnest, the North will be brought to a pause, and to a calculation of consequences; and that may lead to a change of measures, and the adoption of a course of policy that may quietly and peaceably terminate this long conflict between the two sections. If it should not, nothing would remain for you but to stand up immovably in defence of rights, involving your all—your property, prosperity, equality, liberty, and safety.

As the assailed, you would stand justified by all laws, human and divine, in repelling a blow so dangerous, without looking to consequences, and to resort to all means necessary for that purpose. Your assailants, and not you, would be responsible for consequences.

Entertaining these opinions, we earnestly entreat you *to be united,* and for that purpose adopt all necessary measures. Beyond this, we think it would not be proper to go at present.

We hope, if you should unite with any thing like unanimity, it may of itself apply a remedy to this deep-seated and dangerous disease; but, if such should not be the case, the time will then have come for you to decide what course to adopt.

R. M. T. HUNTER, *Virginia.*
JAMES M. MASON, "
ARCHIBALD ATKINSON, "
THOMAS H. BAYLY, "
R. L. T. BEALE, "
HENRY BEDINGER, "
THOMAS S. BOCOCK, "
WILLIAM G. BROWN, "
R. K. MEADE, "
R. A. THOMPSON, "
J. R. J. DANIEL, *North Carolina*
S. U. DOWNS, *Louisiana.*
J. H. HARMANSON, "
EMILE LA SERE, "
I. E. MORSE, "
T. PILSBURY, *Texas.*
DAVID S. KAUFMAN, "
SOLON BORLAND, *Arkansas*
J. K. SEBASTIAN, "
R. W. JOHNSON, "
HOPKINS L. TURNEY, *Tennessee.*
F. P. STANTON, "

A. W. VENABLE, *N. Carolina.*		D. R. ATCHISON, *Missouri.*	
A. P. BUTLER, *South Carolina.*		WILLIAM R. KING, *Alabama.*	
		B. FITZPATRICK,	"
J. C. CALHOUN,	"	JOHN GAYLE,	"
ARMISTEAD BURT,	"	F. W. BOWDON,	"
I. E. HOLMES,	"	S. W. HARRIS,	"
R. B. RHETT,	"	S. W. INGE,	"
R. F. SIMPSON,	"	JEFFERSON DAVIS, *Mississippi.*	
D. WALLACE,	"		
J. A. WOODWARD,	"	HENRY S. FOOTE,	"
H. V. JOHNSON, *Georgia.*		P. W. TOMPKINS,	"
ALFRED IVERSON,	"	A. G. BROWN,	"
HUGH A. HARALSON,	"	W. S. FEATHERSTON,	"
DAVID L. YULEE, *Florida.*		JACOB THOMPSON,	"

P. S. Since this address was prepared a motion to reconsider Mr. GOTT'S resolutions has passed the House of Representatives, and they are now the subject of further proceedings.

LETTER

In answer to an invitation from a Committee appointed by a Convention of the Democratic Republican Electors of the city of New York.

WASHINGTON, *June 4th*, 1840.

GENTLEMEN,—I do assure you, that it is with extreme reluctance, I feel myself constrained to decline the invitation, which you have so kindly offered, and earnestly urge me to accept; to deliver the Address to the democratic citizens of New York on the approaching 4th of July.

I am deeply impressed with the importance of the question involved in the issue now before the country, and have the strongest desire to meet the wishes of yourselves and those you represent; but such is the extent of my engagements here, that it would be out of my power to prepare an

address worthy of you and the occasion, without an interference with my official duties to an extent that I could not justify.

He, who would estimate the contest which now agitates the Union throughout its vast extent, from a mere surface view, without looking to the bottom, would form a most erroneous conception of its true character and the mighty consequences involved. Be assured, we are in the midst of no ordinary crisis. The depth and width of the commotion prove, that some powerful cause is at work beneath; and we cannot too early, or earnestly inquire, what that cause is. To ascertain what it is, we must first have a clear understanding of the circumstances, which constitute the present crisis, and for that purpose a retrospect of our past political history is indispensable.

It is well known to all, who are conversant with the subject, that there has been from the formation of the Constitution two great parties in our country—a national consolidation party, and a State Rights republican party—the one leaning to the side of power; the other to that of liberty. They even preceded the existence of the Government itself. In the convention, that formed the Constitution, the struggle was long and arduous between them—the consolidation party striving to form one supreme national Government, with paramount control over the States, and the other to preserve the federative character of the then existing system, but at the same time to strengthen and perfect the Union, as far as consistent with the independence and sovereignty of the States. Fortunately, the latter, after a long contest, prevailed; and the result was our admirable and beautiful federal republican system, unexampled and unequalled, in any age, or country.

The struggle did not terminate with the convention. The two parties survived. The one took the name of Federal and the other Republican—the former aiming to accomplish, what it had failed to do in convention, by the enlarge-

ment of the grants of power, through a liberal and broad construction; and the other to carry out the Constitution, in its true meaning and spirit, as intended by its framers, by restricting the Government within the limits assigned to it. Each party had its leader in the first cabinet formed by General Washington—the Federal in General Hamilton, the Secretary of the Treasury, and the Republican in Mr. Jefferson, the Secretary of State; both able, accomplished, patriotic, and admirably suited by nature, education, and position in the cabinet, for leading the parties of which they were the acknowledged chiefs.

The policy of Hamilton prevailed; and the funding system, the union of the Government and the banks, the creation of a national bank, the protective policy, and the unlimited application of the money power to objects not embraced by the Constitution followed. The Government thus received its first and powerful impulse in a direction unsuited to its genius and character, and from which, it has never yet fully recovered.

The first reaction, to this almost irresistible impetus, was in the election of Mr. Jefferson, twelve years after the adoption of the Constitution; but with such force had the machine been impelled in the wrong direction, and so adverse was the period, from the then belligerent condition of the world, that with all his experience, ability, and honest zeal, he could do but little to bring back the Government, and give it a fresh start in the direction which its framers intended. The funded debt was indeed greatly reduced, the money power restricted to constitutional objects, retrenchment and economy enforced, but the powerful ligatures, which bound the Government to the paper system, could be neither broke nor severed. Under his virtuous, but less energetic and orthodox successor, the times became more unpropitious. The gigantic struggle, which had so long agitated Europe, passed the Atlantic and reached our peaceful shores. The heavy

expenses and financial embarrassments, which followed, bound the Government with cords more powerful than ever, to the paper system, and restored the policy of Hamilton in its full extent, and to more than its primitive vigor. After the termination of the war, it was carried out in bold relief by the miscalled American System, till it was finally consummated in the Tariff of 1828.

In its train followed, as they ever will, discord, distraction, profusion, extravagance and corruption, which have done much to sap the foundation of our free institutions, and must have utterly subverted them, if the cause, fortunately for the country, had not been arrested.

A reaction has not only commenced, but made great progress towards freeing the Government from the last remnants of a policy, so dangerous and pernicious. How or by whom, so happy a change has been brought about, it is not material to state. It is sufficient to say, that the Government is already free from a funded debt and a national bank, with a fair prospect, in a short time, to be liberated from all connection with the banks, and the protective tariff. With them must fall the whole paper and misnamed American System, and their legitimate offsprings, surplus revenue, profusion, extravagance, corruption, derangement of the currency and the business of the country, which has brought us to our present condition. Yes; I assert with confidence, that a few years of exertion and perseverance in the same direction will complete the reaction and overthrow the whole system of policy, originating in the federal consolidation school of politics, when the Government may take a fresh departure, after more than half a century, in the direction which Jefferson and his associates would give it, if they were alive, and at the helm.

It is this remarkable combination of circumstances, that constitutes the existing crisis, and imparts to it, that deep importance, which causes the agitation now felt throughout

the wide limits of this Union. The issue is made up, and is before the people for trial. The question is, shall the reaction be completed and the consolidation federal system of politics be utterly overthrown, and the opposite substituted for the future? In a word, which shall prevail, the school of Jefferson or Hamilton? Shall we, after the great progress made, and with the sad lesson of experience before us, turn back to the Hamilton policy, reunite the Government with the banks, create anew a national bank, build up another funding system, re-enact a protective tariff, restore the misnamed American System, with all its corrupting and dangerous consequences? or shall we, admonished by the past, adopt the opposite system of policy, restrict the Government rigidly to the few great objects assigned to it; defence against danger from abroad; preservation of peace and tranquillity at home, and a free and open commercial intercourse, within and without? Such is the real question at issue, stripped of the thousand minor and collateral ones, which are mere appendages, and serve but to influence the lighter materials revolving around the two parties. The great masses are rallied on the one or the other side—on that of our opponents, to arrest the further progress of the reaction and return to the old, but, I trust, for ever exploded system; we, to complete the reaction, and take a fresh departure, in the direction laid down in the State Rights Republican Chart of '98, as projected by Mr. Jefferson and his compeers. On the decision of this all-important question will depend, as I believe, the future destiny of the country. If the side of our opponents should in the end prevail, our free and glorious institutions will not long survive. A radical change will follow in the character and habits of the people, which must subvert our institutions, and with them the Union itself; but if, fortunately, that for which we contend shall triumph, generations yet unborn, with the blessings of Providence, may live, and flourish, and glory in our free and happy system of Government.

Thus regarded, never has there been a more important crisis since the adoption of the Constitution. The issue involved is one which may well call for the energy and efforts of freemen. The final decision cannot long be postponed. Now is the time for action. A few years must decide for or against us. Government cannot stand still. It must advance or recede; but when its direction is once taken, if it should be in a wrong direction—against the course for which we contend, it will be beyond human power to restore it short of revolution.

Let me, in conclusion, gentlemen, tender you my heartfelt thanks for the high estimate you have placed on my past labors. For sixteen years my efforts have been incessantly directed to counteract the policy of that school of politics to which I stand opposed, and advance that on which I solemnly believe, the salvation of our institutions depends; often under discouraging circumstances—often left with a small, but gallant band; yet never despairing. The end for which I have labored through a period so long and eventful, is, with your hearty co-operation, not far distant. I see it approach with joy. Once reached, and the Government fairly placed in its proper direction, all I have ever aimed at, will have been accomplished. Beyond, I desire nothing more but to retire and become one of the people.

With great respect, I am, &c. &c.

J. C. CALHOUN.

To Messrs. CHARLES P. DALY and others.

LETTER

To the Citizens of Fayette, Scott, and Woodford.

WASHINGTON, *June 27th*, 1840.

GENTLEMEN:—I have received your note inviting me, in the name of the Republican citizens of Fayette, Scott, and

Woodford, to attend a barbecue to be given at the White Sulphur Springs, on the 11th of next month.

My official duties here, and anxious desire to return to my family as soon as they will possibly permit, will, I hope, be accepted as a sufficient apology for not accepting your invitation.

I cannot but be much gratified that my course in reference to the important subjects of the currency and abolition should receive your approbation and those whom you represent on this occasion. They are, indeed, questions of the first magnitude, full of difficulty and danger. I early saw their rise and approach, and formed my opinion and determined on my course in reference to them, long before their arrival, to which I have steadily adhered, without seeing any cause to regret or change my determination. Much has been done, but much still remains to be done in reference to both; and I shall never be satisfied until the currency is restored to the condition contemplated by the Constitution, and the fell and disorganizing spirit of abolition is effectually put down.

You have, I must think, greatly overestimated my power to serve the country. I claim nothing but honesty of intention, and a fearless temper in the discharge of what I regard as my duty. But were my power ten times greater than what I believe it to be, I would, with my views, be lacking in patriotism, if I did not exert it to the utmost in the attempt to carry the country successfully through the present crisis. According to my conception, there has been none greater since the adoption of the Constitution—none in which, if turned to a proper account, more may be gained to the country, but if not, may be lost.

The Government has committed, from its outset, many and great errors, which have already led to great changes, and if not corrected will lead to a total and disastrous revolution in the social, moral, and political condition of the

country. We have now, for the first time since the Government went into operation, an opportunity to apply an effectual corrective, quietly and peaceably, but which, if permitted to pass without being embraced, will, it is to be feared, be lost for ever. Never before had the Government such an opportunity to extricate itself completely from the errors of the past, and to choose, without embarrassment or restraint, the course which the true genius of the Constitution and a sound and enlightened policy, under the guidance of experience, may dictate. Already much has been done to prepare the way—the public debt is paid; the National Bank is defunct; the divorce from all connection with banks on the eve of being accomplished, when the Government will be (I trust for ever) freed from the paper system—the source of so many evils.

But this is not all that has been done. Much still remains to be added; and among them, I rejoice to state, that the system of protective tariffs, so pre-eminent in mischief, is about to expire. Yes, that system which has done so much to divide and distract the country; to corrupt one portion, and impoverish and alienate the other; which poured into the Treasury so many millions beyond the wants of the Government, extinguishing, by its effects, the spirit of economy, and substituting profusion, extravagance, and waste, is gasping, I trust, its last breath; and with it the connected and kindred system of lawless expenditures on innumerable objects not authorized by the Constitution.

These are the measures which have been followed by such disastrous changes, and which, if not stopped, must work in time an entire revolution in the social condition of the country and the character of the Government—changes foreseen and predicted, even to their final consummation in despotic power, at an early period, by the great and patriotic leaders of the Republican party, particularly in the celebrated report to the Virginia Legislature on the Alien and

Sedition Acts, in 1799. It is from these fatal measures that the Government may now be entirely extricated, and, by being so, saved from the doom which otherwise surely awaits it. It is this precious opportunity, brought about by long-continued and mighty efforts, favored by a fortunate combination of circumstances, which gives such deep importance to the present crisis. I have long and ardently labored to hasten its approach—looking to it as the day of our political deliverance, if, indeed, it be the will of the Almighty Disposer of events that we shall be delivered from pending danger.

I hazard nothing in asserting, if the opportunity which is now afforded of extricating the Government from this disastrous system of measures, and restoring the Constitution to its original purity, be lost—if, unwarned by past experience, instead of going through with the great work of reform which has thus far progressed, we turn back and restore the paper system—incorporate another National Bank; renew the connection with the banks; credit another funding system; revive the protecting tariff, and rear up anew the miscalled American system, with all its wasteful and unconstitutional expenditures, discord, revolution, and the loss of liberty will certainly follow. There is no escape for us but by reversing our course—going completely through with the work of reform, and then taking a fresh start, such as the patriots of '98 would take were they now alive and at the helm. If that be done, with the blessing of Providence, we may look forward with confidence to years of peace, security, prosperity, and liberty; but, if not, the worst that can be anticipated must follow.

With great respect,

I am, &c., &c.,

JOHN C. CALHOUN.

Messrs. J. M. McCALLA, T. M. HICKEY, BENJ. TAYLOR, and G. W. JOHNSON, Committee.

expenses and financial embarrassments, which followed, bound the Government, with cords more powerful than ever, to the paper system, and restored the policy of Hamilton in its full extent, and to more than its primitive vigor. After the termination of the war, it was carried out in bold relief by the miscalled American System, till it was finally consummated in the Tariff of 1828.

In its train followed, as they ever will, discord, distraction, profusion, extravagance and corruption, which have done much to sap the foundation of our free institutions, and must have utterly subverted them, if the cause, fortunately for the country, had not been arrested.

A reaction has not only commenced, but made great progress towards freeing the Government from the last remnants of a policy, so dangerous and pernicious. How or by whom, so happy a change has been brought about, it is not material to state. It is sufficient to say, that the Government is already free from a funded debt and a national bank, with a fair prospect, in a short time, to be liberated from all connection with the banks, and the protective tariff. With them must fall the whole paper and misnamed American System, and their legitimate offsprings, surplus revenue, profusion, extravagance, corruption, derangement of the currency and the business of the country, which has brought us to our present condition. Yes; I assert with confidence, that a few years of exertion and perseverance in the same direction will complete the reaction and overthrow the whole system of policy, originating in the federal consolidation school of politics, when the Government may take a fresh departure, after more than half a century, in the direction which Jefferson and his associates would give it, if they were alive, and at the helm.

It is this remarkable combination of circumstances, that constitutes the existing crisis, and imparts to it, that deep importance, which causes the agitation now felt throughout

Senate, which can neither give nor take it away. It is not my wish to misstate your arguments in the slightest degree, and, to avoid the possibility of misrepresentation, you shall speak for yourself. Spurning the authority of the Senate, you scornfully observe:—

"With the easy assurance of a man stating a conceded postulate, he (Onslow) says, 'After all, the power of the Vice-President must depend upon the rules and usages of the Senate:' a postulate not only false in its principle, but which, if true, would not sustain the cause to whose aid it is invoked. Unless the Constitution of the United States was subjected to some military construction, the power of the Vice-President, in presiding over the Senate, rests on deeper, holier foundations than any rules or usages which that body may adopt. What says the Constitution? 'The Vice-President of the United States shall be President of the Senate, but shall have no vote unless they be equally divided.' 'The Senate shall choose their own officers, and also a President pro tempore, in the absence of the Vice-President, or when he shall exercise the office of President of the United States.'—(Const. U. S. Art. 1. Sec. 3.) It is here made the duty of the Vice-President to preside over the Senate, under the sole restriction of having no vote except in a given case; the right of the Senate to choose their President is confined to two contingencies; his powers, after being so chosen, are identical with those of the President set over them by the Constitution, and any abridgment of those powers by the Senate would be a palpable infraction of that Constitution. Now, sir, what is the import of the term 'to preside,' in relation to a deliberative assembly? Can any sophistry devise a plausible definition of it, which would exclude the power of preserving order? In appointing an officer to preside over the Senate, the people surely intended not to erect an empty pageant, but to accomplish some useful object: and when in another part of the Constitution, they authorize each house 'to determine the rules of its proceedings,' they do not authorize it to adopt rules depriving any office created by the Constitution of powers belonging, *ex vi termini*, to that office. If the plainest or most profound man in the community were asked what powers he supposed to be inherent in the presiding officer of either House of Congress, he would instantly enumerate—First, the power of preserving order in its deliberations; next, that of collecting the sense of its members on any question submitted to their decision; and, thirdly, that of authenticating, by his signature, their legislative acts. I have before said, and I regret that I am obliged to repeat a truism, that 'the right to call to order is a necessary consequence of the power of preserving order;' and that, 'un-

less a deliberative body, acting within the sphere of its competence, expressly restrict this power and this right, no restriction on them can then be supposed.' In divesting the President set over them by the people, of any power which he had received, either expressly or impliedly, from the people, the Senate, instead of 'acting within the sphere of their competence,' would act usurpingly and unconstitutionally—they would nullify the connection which the people had established between themselves and their President; they would reduce themselves to the monstrous spectacle of a body without a head, and their President to the equally monstrous spectacle of a head without a body; and their violent act, while it would be disobeyed as illegal, would be contemned as ridiculous. But, in truth, the Senate have never thus forgotten their allegiance to the Constitution."

There can be no mistake as to the source or the nature of the power, according to your conception. You tell us plainly that it rests "on a deeper, holier foundation" than the rules of the Senate—that it is "inherent in the Vice-President, and that, as presiding officer, he possesses it *ex vi termini;* that an attempt to divest, and, of course, to modify the power 'by the Senate, would be to act' usurpingly and unconstitutionally," and that "such violent act would be disobeyed as illegal, and contemned as ridiculous."

These are, at least, lofty grounds, and if they can be maintained, there is an end of the controversy. It would be absurd to go farther. An inquiry into the rules and usages of the Senate, after such grounds are occupied, becomes ridiculous, and much more so an inquiry into those of the houses of Parliament: for surely, if it is beyond the power of the Senate to give or withhold the right, it must stand on an elevation far above parliamentary rules or usages; and I was, therefore, not a little surprised to find that, after so bold an assertion, more than four fifths of your long and elaborate essay were devoted to a learned and critical inquiry into these very rules and usages. There can be but one explanation of so strange an inconsistency, but that a very satisfactory one. You lack confidence in your own position; and

well might you, for, surely, power so despotic and dangerous, so inconsistent with the first principles of liberty, and every sound view of the Constitution, was never attempted to be established on arguments so imbecile and absurd; to which no intellect, however badly organized, could yield assent, unless associated with feelings leaning strongly to the side of power. That such are your feelings, no one who reads your essay can doubt. None of your sympathies are on the Democratic side of our institutions. If a question be made, as to where power is lodged, it requires but little sagacity to perceive, that you will be found on the side which will place it in the fewest and least responsible hands. You perceive perfection only in the political arrangement, which, with simplicity and energy, gives power to a single will. It is not, then, at all surprising, that you should seize on that portion of the Constitution which appoints the Vice-President to be President of the Senate; and that you should quote it at large, and dwell on it at length, as the source of high and uncontrollable power in that officer; while you have but slightly and casually adverted to another section in the same article, which clothes the Senate with the power "of determining the rules of their proceedings, punishing its members for disorderly conduct, and, with the concurrence of two thirds, of expelling a member."—(See Art. 1, Sec. 5.) Had your predilections for the unity and irresponsibility of power been less strong, you could not have failed to see, that the point of view in which you have thought proper to place the question, made it one of relative power between the Senate and its presiding officer. You place the Vice-President on one side, and the Senate on the other; and the more you augment the constitutional power of the former, as the presiding officer, just in the same proportion you diminish the power of the latter. What is gained to the one is lost to the other; and in this competition of power you were bound to present fully and fairly both sides. This you have not done; and,

country. We have now, for the first time since the Government went into operation, an opportunity to apply an effectual corrective; quietly and peaceably, but which, if permitted to pass without being embraced, will, it is to be feared, be lost for ever. Never before had the Government such an opportunity to extricate itself completely from the errors of the past, and to choose, without embarrassment or restraint, the course which the true genius of the Constitution and a sound and enlightened policy, under the guidance of experience, may dictate. Already much has been done to prepare the way—the public debt is paid; the National Bank is defunct; the divorce from all connection with banks on the eve of being accomplished, when the Government will be (I trust for ever) freed from the paper system—the source of so many evils.

But this is not all that has been done. Much still remains to be added; and among them, I rejoice to state, that the system of protective tariffs, so pre-eminent in mischief, is about to expire. Yes, that system which has done so much to divide and distract the country; to corrupt one portion, and impoverish and alienate the other; which poured into the Treasury so many millions beyond the wants of the Government, extinguishing, by its effects, the spirit of economy, and substituting profusion, extravagance, and waste, is gasping, I trust, its last breath; and with it the connected and kindred system of lawless expenditures on innumerable objects not authorized by the Constitution.

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therefore, he can exercise no power in adopting rules or enforcing them, but what has been delegated to him by the Senate, and only to the extent, both in manner and matter, to which the power has been delegated. The particular power in question, not having been delegated, cannot be exercised by the Vice-President; and, consequently, he is not responsible. Do you not perceive the irresistible force with which your own mode of reasoning applies to the substantial constitutional powers of the Senate, and how partial and absurd your arguments in favor of the inferred constitutional power of its presiding officer, must appear in contrast with it? As absurd as it now appears, it shall be, if possible, infinitely more so, before I have closed this part of the investigation.

With the same predilection, your assumptions are all on the side of uncontrolled and unlimited power. Without proof, or even an attempt at it, you assume, that the power in controversy is *inherent* in the Vice-President; and that he possesses it *ex vi termini* as presiding officer of the Senate. Now I, who have certainly as much right to assume as yourself, deny that he possesses any such power; and what may, perhaps, startle a mind organized like yours, I affirm that, as presiding officer, he has no inherent power whatever, unless that of doing what the Senate may prescribe by its rules, be such a power. There are, indeed, inherent powers; but they are in the *body*, and not in the *officer*. He is a mere agent to execute the will of the former. He can exercise no power which he does not hold by delegation, either express or implied. He stands in the same relation to the body, or assembly over which he presides, that a magistrate, in a republic, does to the state; and it would be as absurd to attribute to the latter inherent powers as to the former. This, in fact, was once a fashionable doctrine. There was a time, when minions of power thought it monstrous, that all the powers of rulers should be derived from so low and filthy a source as the people whom they governed. "A deeper and

holier foundation" of power was sought; and that was proclaimed to be in the "inherent," divine "right of rulers;" and, as their powers were thus shown to be independent of the will of the people, it followed that any attempt on their part to divest rulers of power, would be an act of "such violence, as would be disobeyed as illegal, and contemned as ridiculous." I might trace the analogy between your language and principles and those of the advocates of despotic power in all ages and countries, much farther; but I deem it not necessary, either to weaken or refute your argument. A more direct and decisive reply may be given.

An inherent power is one that belongs essentially to the office, and is, in its nature, inseparable from it. To divest the office of it would be to change its nature. It would be no longer the same office. It is, then, a power wholly independent of the circumstances how the office may be created or filled, or in what particular manner its functions may be exercised. If, then, the power belongs to the Vice-President inherently, as presiding officer of the Senate, it is because it is essentially attached to the mere function of presiding in a deliberative assembly, and, consequently, belongs to all presiding officers over such assemblies; for it would be absurd to assert that it is inherent in him as President of the Senate, and then make it depend on the circumstance that he holds his appointment to preside in the Senate by the *Constitution*. The high power, then, which you attribute to the Vice-President, must belong, if your argument be correct, to the Speaker of the House of Commons, to the Lord-Chancellor, as presiding officer of the House of Lords, to the Speaker of the House of Representatives, and those of our State Legislatures. They must not only possess the power, but must hold it independently of the will of the bodies over which they preside; which can neither give nor take it away, nor modify the mode of exercising it, nor

control its operation. These consequences, absurd as they appear to be, are legitimately drawn from your premises.

Now, "out of thine own mouth I will condemn thee;" —by your own authorities you shall be refuted. To prove that the Vice-President possesses this power, you have labored to establish the fact that the Speaker of the House of Commons holds and exercises it, and in proof of which you have cited many cases from Jefferson's Manual.

It is true that he has, at least to a certain extent, but how has he acquired it? This is the important inquiry in the point of view in which we are now considering the question. Is it inherent, or is it delegated? If the former, I acknowledge that your argument from analogy, in favor of the inherent power of the Vice-President, would have much force; but, if the latter, it must utterly fail; for, if delegated, it clearly establishes the fact that the power is in the *body*, and not in the *presiding officer*, and, consequently, not inherent in the Vice-President, as you affirm. The instances you have cited shall decide the point. What say the cases? "On the 14th of April, 1604, rule conceived, that if any man speak impertinently, or beside the question in hand, it stands with the *orders of the House* for the Speaker to interrupt him, and to show the *pleasure of the House*, whether they will farther hear him." "On the 17th of April, 1604, agreed for a general rule, if any superfluous motion or tedious speech be offered in the House, the party is to be directed and ordered by Mr. Speaker." "On the 19th of May, 1604, Sir William Paddy entering into a long speech, *a rule agreed*, that, if any man speak not to the matter in question, the Speaker is to moderate." So it is said on the 2d of May, 1610, when a member made what seemed an impertinent speech, and there was much hissing and spitting, "that it was *conceived for a rule*, that Mr. Speaker may stay impertinent speeches." "On the 10th of November, 1640, it was declared that, when a business is

begun and in debate, if any man rise to speak to a new business, any member may, but Mr. Speaker ought to, interrupt him."—*See Hatsell's Precedents*, vol. ii., 3d edition.

Do you not notice, that in every case the power was delegated by the House; that the language is, "rule conceived," "it was agreed to as a general rule," "rule agreed," &c., &c.; and this, too, in relation to *the very power in question, according to your own showing?* Thus it is established, beyond controversy, that in the House of Commons the power is really in the body, and not in the presiding officer.

If, to this decisive proof that the power has been delegated to the Speaker of the House of Commons, and is, consequently, not inherent, we add that it is conferred on the Speaker of the House of Representatives (see 19th rule) by an express rule of the House, and that the Lord Chancellor, as presiding officer in the House of Lords, possesses it not, either ex officio or by delegation, as shall be shown hereafter, your monstrous and slavish doctrine, that it is an inherent power, will be completely overthrown, and you are left without the possibility of escape.

Should you attempt to extricate yourself by endeavoring to show that, under our Constitution, the relative powers of the Vice-President and the Senate are different from those of the Speaker and the House of Commons; and that, though the latter may hold the power by delegation from the body, that the Vice-President may possess it by a different and higher tenure, it would, at least, prove that you cede the point that it is not inherent, and, also, that it cannot be deduced from analogy between the *powers* of the two presiding officers, which you have so much relied on in another part of your essay. But this shall not avail you. The door is already closed in that direction. It has been, I trust, conclusively proved that the Constitution, so far from countenancing the idea of the power being inherent in the

Vice-President, gives it to the Senate, by the strongest implication, in conferring the express right of establishing its own rules, and punishing for disorderly conduct. If you are not yet convinced, additional arguments are not wanting, which, though they may not extort an acknowledgment of your error, will thoroughly convince you of it.

You have overlooked the most obvious and best-established rules of construction. What are the facts? The Constitution has designated the Vice-President as President of the Senate, and has also clothed that body with the right of determining the rules of its proceedings. It is obvious that the simple intention of the framers of that instrument was to annex to the office of Vice-President that of President of the Senate, without intending to define the extent or the limit of his power in that character; and, in like manner, it was the intention to confer on the Senate simply the power of enacting its own rules of proceeding, without reference to the powers, such as they may be, that had been conferred on their presiding officer. The extent of power as between the two becomes a question of construction. Now the first rule of construction, in such cases, is the known usage and practice of parliamentary bodies; and, as those of the British Parliament were the best known to the framers of the Constitution, it cannot be doubted that, in determining what are the relative powers of the Vice-President and the Senate, they ought to prevail. Under this view, as between the Vice-President and Senate, the latter possesses the same power in determining its rules that is possessed by the Houses of Parliament, without being restricted in the slightest degree by the fact that the Vice-President, under the Constitution, is president of the body, saving only the right of adopting such rules as apply to the appointment or election of a presiding officer, which the Senate would have possessed, if the Constitution had not provided a president of the body; and, as I have proved,

from your own cases, that the particular power in question incontrovertibly belongs to the House, it follows necessarily, according to established rules of construction, that the Senate also possesses it.

You have overlooked these obvious truths by affixing too high an idea to the powers of the presiding officer in preserving order. According to your conception, the House is nothing, and the officer every thing on points of order. Nothing can be more erroneous. The power you attribute to him has never been possessed by the president, or speaker, in any deliberative assembly; no, not even by delegation from the body itself.

The right of preserving order must depend on the power of enforcing it, or of punishing for a breach of order—a right *inherent* in the *House alone*, and never, in any instance, delegated to the chair. Our Constitution confines this right to each House of Congress, by providing "that they may punish for disorderly conduct,"—a power which they neither have delegated, nor can delegate, to the presiding officer. What, then, is the right of preserving order, belonging to the Vice-President, which you have so pompously announced, and for not enforcing which, according to your conception, you and your associates have denounced Mr. Calhoun almost as a traitor to his country?

It is simply the right of *calling* to order, *in the strict, literal meaning;* and, so far from being derived from the right of preserving order, as you absurdly suppose, it is not even connected with it. The right of *preserving order depends on the right of enforcing it*, or the *right of punishment for breaches of order*, always possessed by the body, but never, either by delegation or otherwise, by the chair. It is notorious that the chair cannot enforce its calls to order. The body alone can, and that only on its decisions, and not on that of the presiding officer. It is thus manifest, the high right of preserving order, to which you make the right

of calling to order incidental, belongs especially to the Senate, and not to the Vice-President ; and, if your argument be correct, the incident must follow the right ; and, consequently, it is the right and duty of a Senator to call to order for disorderly conduct. So clear is the proposition, that, if the member called to order by the chair for disorderly conduct chooses to persist, the presiding officer has no other remedy but to *repeat his call, or throw himself, for the enforcement of it, on the Senate.* This feebleness of the chair, in questions of order, explains why there has always been such indisposition to call to order, even when it is made the express duty by rule, as in the House of Representatives, and the House of Commons in England. Thousands of instances might be cited to establish the truth of this remark, both there and here : instances in which all that has been said and uttered by Mr. Randolph is nothing, but in which the Speaker waited for the interference of some of the members, in order to preserve order. Such was the case in the recent occurrence in the House of Commons, when Mr. Hume made an attack on the Bishop of London and the Lord Chancellor, both of whom, as members of the House of Lords, were under the protection of positive rules ; yet no one, even there, had the assurance to throw the responsibility on the presiding officer. The partisans of power in our country have the honor of leading in these new and dangerous attacks on the freedom of debate.

Some men, of honest intention, have fallen into the error about the right of the Vice-President to preserve order independently of the Senate, because the judges, or, as they express it, the presiding officers in the courts of justice possess the right. A moment's reflection will show the fallacy. There is not the least analogy between the rights and duties of a judge and those of a presiding officer in a deliberative assembly. The analogy is altogether the other way. It is between the court and the House. In fact, the latter is often

called a court, and there is a very strict resemblance, in the point under consideration, between what may be called a parliamentary court and a court of justice. They both have the right of causing their decision to be respected, and order and decorum to be observed in their presence, by punishing those who offend. But who ever heard of the Speaker or Vice-President punishing for disorderly conduct? The utmost power they can exercise over disorderly conduct, even in the lobby or gallery, is to cause it to be suppressed, for the time, by the sergeant-at-arms.

Enough has been said, though the subject is far from being exhausted, to demonstrate that your views of the relative powers and duties of the Vice-President and the Senate, in relation to the point in question, are wholly erroneous It remains to be shown that your opinions (for arguments they cannot be called) are dangerous to our liberty, and that they are in conflict with the first principles of our Government. I do not attribute to you, or those with whom you are associated, any deep laid design against public liberty. Such an attempt, as flagitious as it may be, requires a sagacity and boldness quite beyond what we have now to apprehend from those in power. But that there exists, at the present time, a selfish and greedy appetite to get and to hold office, and that, to effect these grovelling objects, doctrines slavish and dangerous are daily propagated, cannot be doubted by even careless observers. The freedom of debate is instinctively dreaded by the whole corps, high and low, of those who make a speculation of politics; and well they may: for it is the great and only effectual means of detecting and holding up to public scorn every machination against the liberty of the country. It ranks first, even before the liberty of the press, the trial by jury, the rights of conscience, and the writ of habeas corpus, in the estimation of those who are capable of forming a correct estimate of the value of freedom, and the best means of preserving it.

Against this palladium of liberty your blows are aimed; and, to do you justice, it must be acknowledged, if the energy be not great, the direction is not destitute of skill. If you could succeed in establishing the points which you labor, that the Vice-President holds a power over the freedom of debate, under the right of preserving order, beyond the will or control of the Senate; and that, consequently, he alone is responsible for what might be considered an undue exercise of the freedom of speech in debate, a solid foundation would be laid, from which, in time, this great barrier against despotic power would be battered down. It is easy to see that the scheme takes the power of protecting this, the first of its rights, wholly out of the hands of the Senate, and places its custody in the hands of a single individual, and he in no degree responsible to the body over which this high power is to be exercised: thus effectually destroying the keystone of freedom—responsibility—and introducing into a vital part of our system uncontrolled, or, what is the same thing, despotic power; which, being derived, by your theory, from the Constitution, and being applicable to all points of order, necessarily would vest in the Vice-President alone an independent and absolute power, that would draw into the vortex of his authority an unlimited control over the freedom of debate.

Mark the consequences! If the Vice-President should belong to the same party or interest which brought the President into power, or if he be dependent on him for his political standing or advancement, *you will virtually place the control over the freedom of debate in the hands of the Executive.*

You thus introduce the *President*, as it were, into the *chamber of the Senate, and place him virtually over the deliberation of the body, with powers to restrain discussion, and shield his conduct from investigation.* Let us, for instance, suppose that the present chief magistrate should be

begun and in debate, if any man rise to speak to a new business, any member may, but Mr. Speaker ought to, interrupt him."—*See Hatsell's Precedents*, vol. ii., 3d edition.

Do you not notice, that in every case the power was delegated by the House; that the language is, "rule conceived," "it was agreed to as a general rule," "rule agreed," &c., &c.; and this, too, in relation to *the very power in question, according to your own showing?* Thus it is established, beyond controversy, that in the House of Commons the power is really in the body, and not in the presiding officer.

If, to this decisive proof that the power has been delegated to the Speaker of the House of Commons, and is, consequently, not inherent, we add that it is conferred on the Speaker of the House of Representatives (see 19th rule) by an express rule of the House, and that the Lord Chancellor, as presiding officer in the House of Lords, possesses it not, either ex officio or by delegation, as shall be shown hereafter, your monstrous and slavish doctrine, that it is an inherent power, will be completely overthrown, and you are left without the possibility of escape.

Should you attempt to extricate yourself by endeavoring to show that, under our Constitution, the relative powers of the Vice-President and the Senate are different from those of the Speaker and the House of Commons; and that, though the latter may hold the power by delegation from the body, that the Vice-President may possess it by a different and higher tenure, it would, at least, prove that you cede the point that it is not inherent, and, also, that it cannot be deduced from analogy between the *powers* of the two presiding officers, which you have so much relied on in another part of your essay. But this shall not avail you. The door is already closed in that direction. It has been, I trust, conclusively proved that the Constitution, so far from countenancing the idea of the power being inherent in the

rected. Few men would have the firmnness to ecounter danger so tremendous; and the practical result in the long run, must be a subservient yielding to the Executive will.

ONSLOW.

No. II.

Having now established, I may venture to say beyond the possibility of reasonable controversy, that the idea of an inherent right in the Vice-President, independent of, and beyond the will of the Senate, to control the freedom of debate, is neither sanctioned by the Constitution, nor justified by the relation between the body and its presiding officer, and that it is subversive of the right of free discussion, and, consequently, dangerous to liberty, I might here fairly rest the question. To you, at least, who treat with scorn the rules and usages of the Senate, as the source of the power of the Vice-President, all further inquiry is fairly closed. But as many, who may agree with you in the conclusion, may treat with contempt your high-strained conception of the origin of the power under investigation, it will not be improper to ascertain whether it has been conferred on the Vice-President by any act of the Senate, express or implied, the only source whence the power can be fairly derived. In this view of the subject, the simple inquiry is, Has the Senate conferred the power? It has been fully established that they alone possess it, and, consequently, from the Senate only can it be derived. We, then, affirm that the Senate has not conferred the power. The assertion of the negative, in such cases, is sufficient to throw the burden of proof on those who hold the affirmative. I call on you, then, or any of your associates, to point out the rule or the usage of the Senate by which the power has been conferred. None such has, or can be designated.

If a similar question be asked as to the power of the Speaker of the House of Representatives, how easy would

be the reply? The 19th rule, which expressly gives the power to him, would be immediately quoted; and, if that were supposed to be doubtful, the journal of the House would be held up as containing innumerable instances of the actual exercise of the power. No such answer can be given when we turn to the power of the Vice-President. The rules are mute, and the journals of the Senate silent. What means this striking difference, but that, on this point, there is a difference, in fact, between the power of the Speaker and of the Vice-President? a difference which has been always understood and acted on; and when to this we add, that the rules of the two Houses in regard to the power are strikingly different; that, while those of the Representatives expressly delegate the power to the Speaker, those of the Senate, by strong implication, withhold it from the Vice-President, little room can be left for doubt. Compare, in this view, the 19th rule of the House and the 7th of the Senate. The former says, "If any member, by speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order: in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case without debate; if there be no appeal, the decision of the chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he will not be permitted to proceed without leave of the House; and if the case require it, he shall be liable to the censure of the House." The rule of the Senate, on the contrary, provides, "If the member shall be called to order for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter." These are the corresponding rules of the two Houses: and can any impartial mind contend that similar powers are intended to be conferred by them on

the Speaker and Vice-President? Or will it be insisted on that the difference in the phraseology is accidental, when it is known that they have often been revised on the reports of committees, who would not fail to compare the rules of the two Houses on corresponding subjects? Under such circumstances, it is impossible that it could be intended to confer the same power by such difference of phraseology, or that the withholding of the power in question from the Vice-President was unintentional. This rational construction is greatly strengthened, when we advert to the different relations which the two officers bear to their respective Houses. The Speaker is chosen by the House of Representatives, and is, consequently, directly responsible to the body; and his decision, by the rules, may be appealed from to the House. The Vice-President, on the contrary, is placed in the chair by the Constitution, is not responsible to the Senate, and his decision is without appeal. Need we look farther for the reason of so essential a variation in the rules conferring power on their respective presiding officers? It is a remarkable fact, that the same difference exists in the relation between the presiding officers of the two Houses of the British Parliament, and the bodies over which they respectively preside. In the Commons, the Speaker is chosen as in our House of Representatives, and is, consequently, in like manner responsible; on the contrary, in the House of Lords, the Chancellor presides *ex-officio*, in like manner as the Vice-President in the Senate, and is, in like manner, irresponsible to the body. Now it is no less remarkable that the Speaker possesses the power in question, while it is perfectly certain that the Lord Chancellor does not. Like cause, like effect; dissimilar cause, dissimilar effect. You, sir, have, it is true, made a puny effort to draw a distinction between the mode in which the Vice-President and the Lord Chancellor are appointed, and have also feebly denied that the latter has not the power of calling to order. Both

of these efforts show the desperation of your cause. What does it signify by whom an *ex officio* officer is appointed, if not by the body? There can be but one material point, and that without reference to the mode of appointment—is he, or is he not, responsible to the House? If the former, there is good cause for the delegation of the power; for power exercised by responsible agents is substantially exercised by the principal; while by irresponsible agents it is the power of him by whom it is exercised. Nor is your effort to show that the Chancellor has the power less unhappy. You have cited but one instance, and that really renders you ridiculous. The Lord Chancellor, as is well known, has the right of speaking; and you most absurdly cite the commencement of a speech of one of the Chancellors, in which he states that he would call back the attention of the Lords to the question at issue, as an instance of exercising the power of calling to order as presiding officer, for departure from the question! Though you have signally failed to prove your position, you have not less completely established the fact, that your integrity is not above a resort to trick, where argument fails. Nor is this the only instance of subterfuge. You made a similar effort to do away the authority of the venerable Jefferson. He has left on record, that he considered his power as presiding officer of the Senate as the *power of umpirage*, or, what is the same thing, an appellate power. In order to break the force of this authority, you have denied the plain and invariable meaning of the word, and attempted to affix one to it which it never bears. You say that its usual meaning is synonymous with "office," "authority," or "the act of determining," and that it is only in its technical sense that it conveys the idea of an appellate power! Can it be unknown to you that no word in the language more invariably has attached to it the idea of decision by appeal, and that there is not an instance of its being used by any respec-

table authority in the sense which you state to be its usual meaning?

It only remains to consider the cases that you have cited from the Manual, to prove that the Speaker of the House of Commons possesses the power in question; by which you would infer that it belongs also to the Vice-President. A very strange deduction by one who believes that the power originates in the Constitution, and that it neither can be given nor taken away by the authority of the Senate itself. After asserting that it has "deeper and holier foundations than the rules and usages of the Senate," there is something more than ridiculous, that you at last seek for the power in the rules and usages of the House of Commons! But let such inconsistency pass. You have, indeed, established the fact that the Speaker has the power, but you have overlooked the material circumstance, as I have shown from your own cases, that he possesses it by *positive rules of the House*. You might as well have shown that the Speaker of the House of Representatives possesses it, and then inferred that the Vice-President does also; for he, too, holds the power by positive rules of the body, which makes the analogy as strong in the one case as the other.

But you would have it understood that the rules of Parliament have been adopted by the Senate. No such thing. I challenge you to cite a single rule or act of the Senate that gives countenance to it. Finally, you tell us that Mr. Jefferson has cited these rules as being part of the rules and usages of the Senate. Admitting, for a moment, that Mr. Jefferson had cited them as such, still a very important question would arise, how came they to be the rules of the Senate? The Constitution provides that the Senate shall determine the rules of its proceedings; now, if that body has not, by any rule, adopted the rules of the British Parliament, by what process of reasoning could they be construed to be the rules of the Senate? That the Senate has not adopted the

rules of Parliament, is certain; and I confess I am not a little curious to see the process of reasoning by which they are made the rules of the Senate, *without adoption*. Is there not a striking analogy between this and the question, whether the common law is a part of the laws of the Union? We know that they have been decided by the highest judicial authority not to be; and, it seems to me, the arguments which would be applicable to, the one would be equally so to the other question. That the rules and usages of Parliament may be referred to to illustrate the rules of either House of Congress, is quite a distinct proposition, and may be readily admitted. Arguments may be drawn from any source calculated to illustrate, but that is wholly different from giving to the rules of another body a binding force on the Senate, without ever having been recognized as its rules. This is a subject of deep and grave importance; but as it is not necessary to my purpose, I decline entering on it. It is sufficient, at present, to deny that Mr. Jefferson has cited the rules of the Parliament, referred to by you, as those of the Senate. On the contrary, they are expressly cited as the rules of the British House of Commons, without stating them to be obligatory on the Senate. He has notoriously cited many of the rules of that body which are wholly dissimilar from the usages of the Senate. But you cite Mr. Jefferson's opinion, in which he says, "The Senate have, accordingly, formed some rules for its government" (they have been much enlarged since); "but these going only to a few cases, they have referred to the decision of the President, without debate or appeal, all questions of order arising under their own rules, or where there is none. This places under the discretion of the President a very extensive field of decision." If your object in quoting the above passage was to show that, where the Senate has adopted no rules of its own, the rules of Parliament are those of the Senate, it completely fails. Not the slightest countenance is given to such an idea. Mr. Jefferson,

on the contrary, says that, in cases of omission, the sound discretion of the President is the rule ;* and such has been the practice, and from which it has followed that usages of the Senate are very different from the Parliament, which could not be, if the latter were adopted, where there were no positive rules by the Senate.

If this view of the subject be correct, which is certainly Mr. Jefferson's, the Vice-President had the right to make the rule by exercising a sound discretion ; and the only question that could arise in this view is, whether he has acted on correct principles in referring the power to the House, instead of exercising it by the chair. So long as doubtful and irresponsible power ought not to be assumed—so long as the freedom of debate is essential to liberty—and so long as it is an axiom in politics that no power can be safe but what is in the final control and custody of the body over which it is exercised—so long the rule (to view it in that light) adopted by the Vice-President will be considered in conformity with sound political principles. But suppose it to be conceived that the rules of Parliament are those of the Senate, when not overruled by its own positive acts, still, two questions would remain : first, whether the 7th rule of the Senate, by a sound construction, does not restrain the Vice-President from exercising the power, by limiting it to the members of the Senate ? and, secondly, whether the practice of the House of Lords, or that of the Commons ought, in this particular, to prevail ? Both of these points have already been incidentally considered, and a single remark will now

* This opinion of Mr. Jefferson's is probably founded on the latter part of the 6th rule, which strongly supports it. The rule is as follows: "When a member shall be called to order, he shall sit down until the President shall have determined whether he is in order or not; and every question of order shall be decided by the President, without debate; but if there be a doubt in his mind, he may call for the sense of the Senate."

be the reply? The 19th rule, which expressly gives the power to him, would be immediately quoted; and, if that were supposed to be doubtful, the journal of the House would be held up as containing innumerable instances of the actual exercise of the power. No such answer can be given when we turn to the power of the Vice-President. The rules are mute, and the journals of the Senate silent. What means this striking difference, but that, on this point, there is a difference, in fact, between the power of the Speaker and of the Vice-President? a difference which has been always understood and acted on; and when to this we add, that the rules of the two Houses in regard to the power are strikingly different; that, while those of the Representatives expressly delegate the power to the Speaker, those of the Senate, by strong implication, withhold it from the Vice-President, little room can be left for doubt. Compare, in this view, the 19th rule of the House and the 7th of the Senate. The former says, "If any member, by speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call to order: in which case the member so called to order shall immediately sit down, unless permitted to explain; and the House shall, if appealed to, decide on the case without debate; if there be no appeal, the decision of the chair shall be submitted to. If the decision be in favor of the member called to order, he shall be at liberty to proceed; if otherwise, he will not be permitted to proceed without leave of the House; and if the case require it, he shall be liable to the censure of the House." The rule of the Senate, on the contrary, provides, "If the member shall be called to order for words spoken, the exceptionable words shall immediately be taken down in writing, that the President may be better enabled to judge of the matter." These are the corresponding rules of the two Houses: and can any impartial mind contend that similar powers are intended to be conferred by them on

ercise of his power, and which you endeavor to support by reference to the stale and false accounts of his conduct in the case of Mr. Dickerson. It is sufficient that Mr. D. has repelled the charge of injustice, and you exhibit but a sorry and factious appearance in defending a Senator from oppression, who is not conscious of any injustice having been inflicted.

Having demonstrated that the powers which you claim for the Vice-President do not belong to him as presiding officer of the Senate, and that they are not conferred on him by the rules or usage of the Senate, or those of Parliament, I may safely affirm that it does not exist, and that, so far from censure, Mr. Calhoun deserves praise for declining to exercise it. He has acted in the spirit that ought to actuate every virtuous public functionary—not to assume doubtful powers—a spirit, under our systems of delegated authority, essential to the preservation of liberty, and for being guided by which he will receive the thanks of the country when the excitement of the day has passed away.

I have now completed what may be considered the investigation of the subject; but there are still several of your remarks that require notice. You have not only attacked the decision of Mr. Calhoun, but you have impugned his motives with licentious severity. The corrupt are the most disposed to attribute corruption, and your unprovoked and unjustifiable attack on Mr. C.'s motives speak as little in favor of your heart as your arguments do of your head. Fortunately for the Vice-President, his general character for virtue and patriotism shields him from the imputation of such gross abuse of power, from such impure motives as you attribute to him. He could not decide differently from what he did without being at war with the principles which have ever governed him. It is well known to all acquainted with him, publicly or privately, that the maxim which he holds in the highest veneration, and which he regards as the foun-

dation of our whole system of government, is, that power should be controlled by the body over which it is exercised, and that, without such responsibility, all delegated power would speedily become corrupt. Whether he is wrong in giving too high an estimate to this favorite maxim is immaterial. It is, and long has been, his, and could not fail in having great influence in the decision which you have so seriously assaulted. Had his principles been like yours, as illustrated in your essay, it is possible he might have taken a different view of the subject; but, as he has decided in conformity with principles long fixed in his mind, there is something malignant in the extreme to attribute his decision to motives of personal enmity. You not only attack Mr. C.'s motives for this decision, but also his motive for the constitution of the Committee of Foreign Relations. You think it a crime in him that the venerable and patriotic Macon should be placed at the head of the committee. I will neither defend him nor the other members of the committee. They need no defence; but I cannot but remark, that the election of Mr. Macon President pro tem. of the Senate is a singular comment on your malignant attack on the Vice-President.

It would have been impossible that you should steer clear of the cant of your party, and we accordingly have a profusion of vague charges about Mr. Calhoun's ambition. The lowest and most mercenary hireling can easily coin such charges; and while they deal in the general, without a single specification, it is utterly impossible to meet or refute them; but, fortunately, they go for nothing with the wise and virtuous, saving only that, on the part of those who make them, they evince an envious, morbid mind, which, having no real ground of attack, indulges in vague, unmeaning abuse. It is highly honorable to Mr. C. that, in the midst of so much political enmity, his personal and public character stands free from all but one specific charge—which is, that he has inclined, in his present station, *too*

much against his own power, and too much in favor of the inestimable right of the freedom of debate. That he has been indefatigable in the discharge of his duty; that he has been courteous to the members, and prompt and intelligent, all acknowledge. Not a moment was he absent from his post during a long and laborious session, and often remained in the chair, without leaving it, from eight to twelve hours. He has, however, committed one unpardonable sin which blots out all. He did not stop Mr. Randolph. This is the head and front of his offending. And who is Mr. Randolph? Is he or his manners a stranger in our national councils? For more than a quarter of a century he has been a member of Congress, and during the whole time his character has remained unchanged. Highly talented, eloquent, severe, and eccentric; not unfrequently wandering from the question, but often uttering wisdom worthy of a Bacon, and wit that would not discredit a Sheridan, every Speaker had freely indulged him in his peculiar manner, and that without responsibility or censure; and none more freely than the present Secretary of State, while he presided in the House of Representatives. He is elected, with a knowledge of all this, by the ancient and renowned commonwealth of Virginia, and takes his seat in the Senate. An immediate outcry is made against the Vice-President for permitting him, who has been so long permitted by so many Speakers, to exercise his usual freedom of discussion, though, in no respect, were his attacks on this administration freer than what they had been on those of Mr. Jefferson, Mr. Madison, and Mr. Monroe. Who can doubt, if Mr. Calhoun had yielded to this clamor, that the whole current would have turned; and that he would then have been more severely denounced for, what would have been called, his tyranny and usurpation, than he has been for refusing to interfere with the freedom of debate? His authority would have been denied, and properly denied. The fact

that Mr. R. had been permitted, by all other presiding officers, for so long a time, to speak without restraint, would have been dwelt upon; and the injustice done to the Senator, and the insult offered to the State that sent him, would have been painted in the most lively colors.

These considerations, we are satisfied, had no weight with the Vice-President. Those who know him, know that no man is more regardless of consequences in the discharge of his duty; but that the attack on him is personal, in order to shake his political standing and prostrate his character, is clearly evinced by every circumstance; and, with this object, that he would have been assaulted, act as he might, is most certain. It is for the American people to determine, whether this conspiracy against a public servant, whose only fault is, that he has chosen the side of liberty, rather than that of power; and whose highest crime consists, in a reverential regard for the freedom of debate, shall succeed.

ONSLOW.

APPENDIX.

CORRESPONDENCE

Between Gen. Andrew Jackson and John C. Calhoun, President and Vice-President of the United States, on the subject of the course of the latter, in the deliberations of the cabinet of Mr. Monroe, on the occurrences in the Seminole War.

[NOTE.—While the Works of Mr. Calhoun would be incomplete without the following correspondence, the Editor has felt some hesitation in deciding whether, in the imperfect state in which it here appears, and in which it was originally laid before the public, it would not have been better to have incorporated it among other materials relating to the same subject in the Memoirs of the illustrious statesman now being prepared for the Press. A large mass of correspondence connected with this most infamous intrigue remains unpublished. It was, no doubt, suppressed by Mr. Calhoun from considerations connected with the political condition of the country at the time, and from an unwillingness to implicate others who, at the hazard of losing all prospects of preferment, had voluntarily stepped forward to vindicate him from charges so wantonly and falsely preferred against him. Conduct so noble and generous on their part, while it might have strengthened his defence (if it, indeed, needed such aid), would certainly have insured their political destruction: for no motives however pure, no virtues however exalted, no services however eminent—no love of country or of truth and justice, were allowed as an excuse, much less as a justification, for opposing the purposes of the Chief Magistrate. He had determined that Mr. Van Buren should be his successor, and this correspondence was gotten up by him for the sole purpose of destroying his supposed rival.

A supposed friend of Gen. Jackson, has recently attempted to give a new exposition of the causes which led to this controversy; but his labor seems to have had no effect on the public convictions. Instinctive perception, coupled with the now well ascertained facts of history, has firmly settled the public opinion in regard to the whole subject. It would, therefore be unnecessary, even if it were strictly proper, to incorporate in a collection of his Works, matter which he thought proper to suppress. That duty belongs rather to the biographer than the editor: and the entire correspondence in relation to the subject, together with such notes and comments as may serve to explain the motives and objects of the chief actors in this shameful conspiracy, will be laid before the public in the Memoirs of Mr. Calhoun. Only that portion of the correspondence which he thought proper to publish in his defence, will appear in his works. The reply to Mr. Eaton, being directly connected with the controversy is subjoined, as serving to show who were the subaltern agents originally employed in the transaction. Other names may appear hereafter.—EDITOR.]

TO THE PEOPLE OF THE UNITED STATES:—

I come before you as my constituents to give an account of my conduct in an important political transaction, which has been called in question, and so erroneously represented, that neither justice to myself nor respect for you will permit me any longer to remain silent. I allude to my course, in the deliberations of the cabinet of Mr. Monroe, on the Seminole question. I know not how I can place more fully before you all the facts and circumstances of the case, than by putting you in possession of the correspondence between General Jackson and myself, which will show the difference between the views that we have respectively taken, and by what means, and through whose agency, this long gone-by affair has been revived.

I have not taken this step, strictly defensive as it is, without mature deliberation, and a calm and careful estimate of all the obligations under which I act. That there are strong reasons against it, I feel and acknowledge; but I also feel the most thorough conviction that the sacred obligation

to vindicate my character, impeached as it has been, in one of the most important incidents of my life, and to prove myself not unworthy of the high station to which you have elevated me, far outweigh all other considerations. Should my vindication have any political or personal bearing, I can only say that it will not be because I have either willed or desired it. It is my intention simply to place my own conduct in its proper light, and not to assault others. Nor ought I to be held responsible should any such consequence follow; as I am free from all agency in resuscitating this old subject, or bringing it to the knowledge of the public. Previous to my arrival here, I had confined the knowledge of the existence of the correspondence to a few confidential friends, who were politically attached both to General Jackson and myself; not that I had any thing to apprehend from its disclosure, but because I was unwilling to increase the existing excitement in the present highly critical state of our public affairs. But when I arrived here, late in December, I found my caution had been of no avail, and that the correspondence was a subject of conversation in almost every circle, and soon became a topic of free comment in most of the public journals. The accounts of the affair, as is usually the case on such occasions, were for the most part grossly distorted, and were in many instances highly injurious to my character. Still I deemed it my duty to take no hasty step, being determined to afford time for justice to be done me without appeal to you; and, if it should be, to remain silent, as my only object is the vindication of my conduct and character. Believing that further delay would be useless, I can see no adequate motive to postpone, any longer, the submission of all the facts of the case to your deliberate and final decision.

I am not ignorant of the trying position in which I am placed—standing unsustained except by the force of truth and justice; yet I cannot but look with confidence to your

decision. The question presented for your consideration is not that of a controversy of two individuals, between whom you are to decide: viewed in that light, it would bear the aspect of a mere personal difference, involving no principle, and unworthy of your notice; but, regarded in a different light, as involving the character of an officer, occupying by your suffrage a distinguished official station, whose conduct in an interesting public transaction had been impeached, it assumes a far more important bearing, and presents a question of deep import for your consideration. The most sacred of all political relations is that between the representative and the constituent. When your suffrage places an individual in a high official station, a most solemn obligation is imposed on you and him, on the faithful discharge of which the existence of our free and happy institutions mainly depends; on him, so to act as to merit your confidence, and on you, not to withdraw that confidence without just cause. It is under a profound regard for this mutual and sacred obligation that I submit the whole affair to your determination, conscious that in this, as well as every other public transaction of my life, I have been actuated by a solemn sense of duty to you, uninfluenced by fear, favor, or affection. I cannot but look forward to your entire approbation.

I owe it to myself to state, that I come before you under circumstances very painful to me, and a reluctance which nothing but a sense of duty to you and myself could overcome. Among these circumstances, is the necessity of being instrumental in disclosing, in any degree, what I deem so highly confidential as the proceedings of the cabinet, and for which I feel myself justified only by absolute necessity. Acting under this impression, I have not felt myself at liberty to go, even in self-defence, beyond strict necessity, and have, accordingly, carefully avoided speaking of the course of my associates in the administration, and even of

my own, beyond what appeared to be indispensable. I have not put even Mr. Crawford's statement of his course in the cabinet at issue, except only incidentally, as bearing on his statement of mine. It is no concern of mine, except in this incidental way, what representation he may choose to give of his course, as to this subject, now or formerly, or whether his representation be correct or erroneous.

Before I conclude these prefatory observations, I deem it proper to make a few additional remarks, as to the commencement and motive of this movement against me.

The origin goes far back, beyond the date of the present correspondence, and had for its object, not the advantage of General Jackson, but my political destruction, with motives which I leave you to interpret. The enmity of Mr. Crawford to me, growing out of political controversies long since passed, afforded a ready and powerful instrument by which to operate; and it was early directed against me, with the view of placing General Jackson and myself in our present relations. With that motive, in the midst of the severe political struggle which ended in elevating him to the presidential chair, and in which I took a part so early and decided in his favor, a correspondence was opened at Nashville, unknown to, and unsuspected by me, in December, 1827, which commenced that chain of artful operations, that has terminated by involving General Jackson and myself in the present correspondence. A copy of the letter which opened this operation has been placed in my possession. It was written by Mr. Crawford to Alfred Balch, Esq., of Nashville, and is dated the 14th of December, 1827. That the nature and objects of the operations against me may be fully understood by you, I hereto annex the copy of Mr. Crawford's letter to Mr. Balch, and a copy of a letter from the Honorable Wilson Lumpkin, a representative in Congress from the State of Georgia, to me, dated the 27th January, 1829, in which it was enclosed, with an extract from the letter of the

Honorable Daniel Newnan, member of Congress elect from the same State. I submit them without comment.

The movement thus commenced did not terminate with this letter. It was followed by other attacks from the same and other quarters, some of which are indicated in the correspondence now laid before you.

It may be proper to state, that I remained ignorant and unsuspicious of these secret movements against me, till the spring of 1828, when vague rumors reached me that some attempts were making at Nashville to injure me; but I treated them with silent neglect, relying confidently for protection on the friendly relation which had so long existed between General Jackson and myself, and the uniform and decided course which I had taken in his favor, in the political struggle then pending. My support of him rested on a principle that I believe to be fundamental in our political system, and the hope that his deep-rooted popularity would afford the most effectual means of arresting the course of events, which, I could not but foresee, if not arrested, would bring the great interests of the country into a deep and dangerous conflict.

JOHN C. CALHOUN.

No. 1.

Copy of a letter from Hon. Wilson Lumpkin, enclosing extract of a letter from General D. Newnan to him, covering copy of William H. Crawford's letter to Alfred Balch, Esq., of Nashville, Tennessee.

WASHINGTON, *January 27th*, 1829.

DEAR SIR:—I herewith enclose you the copy of a letter received from my friend General Daniel Newnan, in whom I have great confidence. I also give you an extract from my friend's letter.

The great confidence and friendship which I have long entertained, and still entertain, for General Jackson, as well as yourself, induce me to take the liberty of making this communication to you. I am confident the best interest of our common country requires, not only the harmonious and patriotic union of the two first officers of the Government, but of every patriotic citizen of the whole country, to frown indignantly upon all *intriguers, managers, political jugglers,* and selfish politicians of every description, *who are disposed to divide and conquer.*

I feel the more at liberty and authorized to make this communication, because I know, of my own knowledge, you and your friends are misrepresented upon this subject. However, General Jackson, himself, must see and know the object of these shallow efforts.

I do not know one conspicuous friend of yours, but what has constantly, zealously, and uniformly supported General Jackson, from the day that Pennsylvania declared in his favor to the present time. How, then, can it be possible that General Jackson can suspect the friendship, constancy, or sincerity of you or your friends? No; he cannot—he will not—he does not. I have quite too much confidence in the General to believe such idle tales.

Nevertheless, it is proper for you and him both to be apprised of the machinations of the mischievous.

You are at liberty to use this communication in any way you please.

With respect and esteem,

Your obedient servant,

WILSON LUMPKIN.

Hon. J. C. CALHOUN.

No. 2.

Extract of a letter from the Hon. Daniel Newnan to the Hon. Wilson Lumpkin, dated near Nashville, Tennessee, 8th January, 1829, *enclosing copy of a letter of W. H. Crawford to Alfred Balch.*

"W. H. C. has done Mr. Calhoun a great deal of injury, as well by his private machinations as his extensive correspondence. In addition to the letter which he wrote to Mr. Balch, a copy of which I now enclose you (and which has been seen by General Jackson), he, a short time since, wrote a letter to G. W. Campbell, proposing that Tennessee should vote for a third person for the Vice-Presidency, and requested Mr. Campbell to show the letter to General Jackson.

"I hope Mr. Calhoun will take the earliest opportunity of seeing General J., and putting all things straight; for I cannot believe for one moment the allegations of W. H. C."

No. 3.

Copy of a letter from W. H. Crawford to Alfred Balch, Esq.

WOODLAWN, *December 14th,* 1827.

MY DEAR SIR:—By the last mail I had the pleasure of receiving a letter from you. If I understand your letter, you appear to think a public expression of my opinion on the approaching election to be proper. I cannot think a measure of this nature necessary or proper. In other words, it appears to me highly improper, and could hardly fail to stamp the charge of intolerable arrogance upon me in indelible characters. But few men can ever expect to arrive at that height that would justify a step of that kind, much less an individual who lives in the most absolute retirement, and who has no ambition to emerge from it. I am perfectly

reconciled to my situation, and would not willingly exchange it with Mr. Adams. But my opinions upon the next presidential election are generally known. When Mr. Van Buren and Mr. Cambreleng made me a visit last April, I authorized them upon every proper occasion to make those opinions known. The vote of the State of Georgia will, as certainly as that of Tennessee, be given to General Jackson, in opposition to Mr. Adams. The only difficulty that this State has upon that subject, is that, if Jackson should be elected, Calhoun will come into power. I confess I am not apprehensive of such a result. For ——— ——— writes to me, "Jackson ought to know, and, if he does not, he shall know, that, at the Calhoun caucus in Columbia, the term "Military Chieftain" was bandied about more flippantly than by H. Clay, and that the family friends of Mr. Calhoun were most active in giving it currency;" and I know personally that Mr. Calhoun favored Mr. Adams's pretensions until Mr. Clay declared for him.* He well knew that Clay would not have

* Mr. Crawford's assertion, that *he knew personally* what he here affirms, renders it proper to make a few remarks. How he could have had any personal knowledge of what he states, I am at a loss to understand. Our political intercourse had ceased for years. We had none subsequent to the fall of 1821, and in fact none of any kind after that, beyond the mere ordinary civilities of life.

My course in relation to the point in question was very different from what he states. When my name was withdrawn from the list of presidential candidates, I assumed a perfectly neutral position between General Jackson and Mr. Adams. I was decidedly opposed to a congressional caucus; as both these gentlemen were also, and as I bore very friendly personal and political relations to both, I would have been very well satisfied with the election of either. When they were both returned to the House of Representatives, I found myself placed in a new relation to them. I was elected Vice-President by the people, and a sense of propriety forbade my interference in the election in the House, yet I could not avoid forming an opinion as to the principles that ought to govern the choice of the House. This opinion was early formed, long before I had the least intimation of the course of the

declared for Adams, without it was well understood that he, Calhoun, was to be put down if Adams's influence could effect it. If he was not friendly to his election, why did he suffer his paper to be purchased by Adams's printer, without making some stipulation in favor of Jackson? If you can ascertain that Calhoun will not be benefited by Jackson's election, you will do him a benefit by communicating the information to me. Make what use you please of this letter, and show it to whom you please.

I am, dear Sir, your friend
And most obedient servant,
WM. H. CRAWFORD.

ALFRED BALCH, Esq.

A true and exact copy. [Noted in the handwriting of Gen. Newnan.]

CORRESPONDENCE

Between Gen. Andrew Jackson and John C. Calhoun, President and Vice-President of the United States.

MAY 13th, 1830.

SIR :—That frankness, which, I trust, has always characterized me through life, towards those with whom I have been in the habits of friendship, induces me to lay before

prominent individual referred to by Mr. Crawford, and was wholly independent of what might be his course, or that of any other individual. What the principle is that in my opinion ought to govern the House of Representatives in the case of a contested election, I leave to be inferred from my subsequent course. So completely did my opinion depend on what I considered a sound principle in the abstract, that, had the position of the two leading candidates before the House been reversed, it would not have influenced my course in the least degree.

As to the reason by which Mr. Crawford endeavors to sustain what he affirms he *personally knew*, I deem them wholly unworthy of notice.

you the inclosed copy of a letter from William H. Crawford, Esq., which was placed in my hands on yesterday. The submission, you will perceive, is authorized by the writer. The statements and facts it presents being so different from what I had heretofore understood to be correct, requires that it should be brought to your consideration. They are different from your letter to Governor Bibb, of Alabama, of the 13th May, 1818, where you state "General Jackson is vested with full power to conduct the war in the manner he may judge best," and different, too, from your letters to me at that time, which breathe throughout a spirit of approbation and friendship, and particularly the one in which you say, "I have the honor to acknowledge the receipt of your letter of the 20th ultimo, and to acquaint you with the entire approbation of the President of all the measures you have adopted to terminate the rupture with the Indians." My object in making this communication is to announce to you the great surprise which is felt, and to learn of you whether it be possible that the information given is correct; whether it can be, under all the circumstances of which you and I are both informed, that any attempt seriously to affect me was moved and sustained by you in the cabinet council, when, as is known to you, I was but executing the *wishes* of the Government, and clothed with the authority to "conduct the war in the manner I might judge best."

You can, if you please, take a copy: the one inclosed you will please return to me.

I am, sir, very respectfully,
Your humble servant,
ANDREW JACKSON.

The Hon. J. C. CALHOUN.

Copy of Mr. Crawford's Letter to Mr. Forsyth, enclosed in the above.

WOODLAWN, *April 30th*, 1830.

MY DEAR SIR,—Your letter of the 16th was received by Sunday's mail, together with its enclosure. I recollect having conversed with you at the time and place, and upon the subject, in that enclosure stated, but I have not a distinct recollection of what I said to you, but I am certain there is one error in your statement of that conversation to Mr. ——. I recollect distinctly what passed in the cabinet meeting, referred to in your letter to Mr. ——.

Mr. Calhoun's proposition in the cabinet was, that General Jackson should be punished in some form, or reprehended in some form; I am not positively certain which. As Mr. Calhoun did not propose to arrest General Jackson, I feel confident that I could not have made use of the word in my relation to you of the circumstances which transpired in the cabinet, as I have no recollection of ever having designedly misstated any transaction in my life, and most sincerely believe I never did. My apology for having disclosed what passed in a cabinet meeting is this: In the summer after that meeting, an extract of a letter from Washington was published in a Nashville paper, in which it was stated that I had proposed to arrest General Jackson, but that he was triumphantly defended by Mr. Calhoun and Mr. Adams. This letter, I always believed, was written by Mr. Calhoun, or by his directions. It had the desired effect. General Jackson became extremely inimical to me, and friendly to Mr. Calhoun. In stating the arguments of Mr. Adams to induce Mr. Monroe to support General Jackson's conduct throughout, adverting to Mr. Monroe's apparent admission, that if a young officer had acted so he might be safely punished, Mr. Adams said, that if General Jackson had acted so, that if he was a subaltern officer, *shooting was too good for him*. This, however, was said with a view of driving Mr. Monroe

to an unlimited support of what General Jackson had done, and not with an unfriendly view to the General. Indeed, my own views on the subject had undergone a material change after the cabinet had been convened. Mr. Calhoun made some allusion to a letter the General had written to the President, who had forgotten that he had received such a letter, but said, if he had received such a one, he could find it; and went directly to his cabinet, and brought the letter out. In it General Jackson approved of the determination of the Government to break up Amelia Island and Galveston, and gave it also as his opinion that the Floridas ought to be taken by the United States. He added, it might be a delicate matter for the Executive to decide; but if the President approved of it, he had only to give a hint to some confidential member of Congress, say Johnny Ray, and he would do it, and take the responsibility of it on himself. I asked the President if the letter had been answered. He replied, no; for that he had no recollection of having received it. I then said that I had no doubt that General Jackson, in taking Pensacola, believed he was doing what the Executive wished. After that letter was produced, unanswered, I should have opposed the infliction of punishment upon the General, who had considered the silence of the President as a tacit consent; yet it was after this letter was produced and read, that Mr. Calhoun, made his proposition to the cabinet for punishing the General. You may show this letter to Mr. Calhoun, if you please. With the foregoing corrections of what passed in the cabinet, your account of it to Mr. —— is correct. Indeed, there is but one inaccuracy in it, and one omission. What I have written beyond them is a mere amplification of what passed in the cabinet. I do not know that I ever hinted at the letter of the General to the President; yet that letter had a most important bearing upon the deliberations of the cabinet, at least in my mind, and possibly in the minds of Mr. Adams and

the President; but neither expressed any opinion upon the subject. It seems it had none upon the mind of Mr. Calhoun, for it made no change in his conduct.

I am, dear sir, your friend,
And most obedient servant,
WM. H. CRAWFORD.

Hon. JOHN FORSYTH.

A true copy from the original in my possession.
JOHN FORSYTH.

May 12th, 1830.

Mr. Calhoun to General Jackson.

WASHINGTON, *May 13th*, 1830.

SIR,—Agreeably to your request, I herewith return the copy of a letter signed William H. Crawford, which I received under cover of your note of this instant, handed to me this morning by Mr. Donelson, of which I have retained a copy, in conformity with your permission.

As soon as my leisure will permit, you shall receive a communication from me on the subject to which it refers. In the mean time, I cannot repress the expression of my indignation at the affair; while, at the same time, I cannot but express my gratification that the secret and mysterious attempts which have been making by false insinuations, for years, for political purposes, to injure my character, are at length brought to light.

J. C. CALHOUN.

To the PRESIDENT of the United States.

Mr. Calhoun to General Jackson.

WASHINGTON, *May 29th*, 1830.

SIR,—In answering your letter of the 13th instant, I wish to be distinctly understood, that, however high my respect for your personal character, and the exalted station which you occupy, I cannot recognize the right on your part to call in question my conduct on the interesting occasion to which

your letter refers. I acted on that occasion, in the discharge of a high official duty, and under responsibility to my conscience and my country only. In replying, then, to your letter, I do not place myself in the attitude of apologizing for the part I may have acted, or of palliating my conduct on the accusation of Mr. Crawford. My course, I trust, requires no apology; and if it did, I have too much self-respect to make it to any one in a case touching the discharge of my official conduct. I stand on very different ground. I embrace the opportunity which your letter offers, not for the purpose of making excuses, but as a suitable occasion to place my conduct in relation to an interesting public transaction in its proper light; and I am gratified that Mr. Crawford, though far from intending me a kindness, has afforded me such an opportunity.

In undertaking to place my conduct in its proper light, I deem it proper to premise that it is very far from my intention to defend mine by impeaching yours. Where we have differed, I have no doubt that we differed honestly; and in claiming to act on honorable and patriotic motives myself, I cheerfully accord the same to you.

I know not that I correctly understood your meaning; but, after a careful perusal I would infer from your letter that you had learned for the first time, by Mr. Crawford's letter, that you and I placed different constructions on the orders under which you acted in the Seminole war; and that you had been led to believe, previously, by my letters to yourself and Governor Bibb, that I concurred with you in thinking that your orders were intended to authorize your attack on the Spanish posts in Florida. Under these impressions, you would seem to impute to me some degree of duplicity, or at least concealment, which required on my part explanation. I hope that my conception of your meaning is erroneous; but if it be not, and your meaning be such as I suppose, I must be permitted to express my surprise at the

misapprehension, which, I feel confident, it will be in my power to correct by the most decisive proof drawn from the public documents,* and the correspondence between Mr. Monroe and yourself, growing out of the decision of the cabinet on the Seminole affair, which passed through my hands at the time, and which I now have his permission to use, as explanatory of my opinion as well as his, and the other members of his administration. To save you the trouble of turning to the file of your correspondence, I have enclosed extracts from the letters, which clearly prove that the decision of the cabinet on the point that your orders did not authorize the occupation of St. Mark's and Pensacola, was early and fully made known to you, and that I, in particular, concurred in the decision.

Mr. Monroe's letter of the 19th July, 1818, the first of the series, and written immediately after the decision of the cabinet, and from which I have given a copious extract, enters fully into the views taken by the Executive of the whole subject. In your reply of the 19th of August, 1818, you object to the construction which the administration had placed on your orders, and you assign your reasons at large, why you conceived that the orders under which you acted authorized your operations in Florida. Mr. Monroe replied on the 20th October, 1818; and, after expressing his regret that you had placed a construction on your orders different from that intended, he invited you to open a correspondence with me, that your conception of the meaning of your orders, and that of the administration, might be placed, with the reasons on both sides, on the files of the War Department. Your letter of the 15th of November, in answer, agrees to the correspondence as proposed, but declines commencing it;

* See from letter A. to F. inclusive, being an extract from a private correspondence between Mr. Monroe and Gen. Jackson in the Seminole campaign.

to which Mr. Monroe replied by a letter of the 21st December, stating his reasons for suggesting the correspondence, and why he thought that it ought to commence with you. To these, I have added an extract from your letter of the 7th December, approving of Mr. Monroe's message at the opening of Congress, which, though not constituting a part of the correspondence from which I have extracted so copiously, is intimately connected with the subject under consideration.

But it was not by private correspondence only, that the view which the Executive took of your orders was made known. In his message to the House of Representatives of the 25th March, 1818, long before information of the result of your operations in Florida was received, Mr. Monroe states, that "orders had been given to the General in command not to enter Florida, unless it be in pursuit of the enemy, and, in that case, to respect the Spanish authority, wherever it may be maintained; and he will be instructed to withdraw his forces from the province as soon as he has reduced that tribe (the Seminoles) to order, and secured our fellow-citizens in that quarter, by satisfactory arrangements, against its unprovoked and savage hostilities in future." In his annual message at the opening of Congress, in November of the same year, the President, speaking of your entering Florida, says: "On authorizing Major General Jackson to enter Florida, in pursuit of the Seminoles, care was taken not to encroach on the rights of Spain." Again: "In entering Florida to suppress this combination, no idea was entertained of hostility to Spain; and, however justifiable the commanding General was, in consequence of the misconduct of the Spanish officers, in entering St. Mark's and Pensacola to terminate it, by proving to the savages, and their associates, that they could not be protected, even there, yet the amicable relation between the United States and Spain could not be altered by that act alone. By ordering the restitution of those posts, those relations were preserved. To a change of them the power

of the Executive is deemed incompetent. It is vested in Congress alone." The view taken of this subject met your entire approbation, as appears from the extract of your letter, of 7th December, 1818, above referred to.

After such full and decisive proof, as it seems to me, of the view of the Executive, I had a right, as I supposed, to conclude that you long since knew that the administration, and myself in particular, were of the opinion that the orders under which you acted did not authorize you to occupy the Spanish posts; but I now infer from your letter, to which this is an answer, that such conclusion was erroneous, and that you were of the impression, till you received Mr. Crawford's letter, that I concurred in the opposite construction, which you gave to your orders, that they were intended to authorize you to occupy the posts. You rely for this impression, as I understand you, on certain general expressions in my letter to Governor Bibb, of Alabama, of the 13th of May, 1818, in which I stated that "General Jackson is vested with full powers to conduct the war in the manner he shall judge best," and also in my letter of the 6th February, 1818, in answer to yours of the 20th January of the same year, in which I acquainted you "with the entire approbation of the President of all the measures you had adopted to terminate the rupture with the Seminole Indians."

I will not reason the point, that a letter to Gov. Bibb, which was not communicated to you, which bears date long after you had occupied St. Mark's and subsequent to the time you had determined to occupy Pensacola (see your letter of June 2d, 1818, to me, published with the Seminole documents), could give you authority to occupy those posts. I know, that, in quoting the letters, you could not intend such absurdity, to authorize such an inference; and I must therefore conclude that it was your intention by the extract to show, that, at the time of writing the letter, it was my opinion that the orders under which you did act were intended

to authorize the occupation of the Spanish posts. Nothing could have been more remote from my intention in writing the letter. It would have been in opposition to the view which I have always taken of your orders, and in direct contradiction to the President's message of the 25th March, 1818, communicated but a few weeks before to the House of Representatives (already referred to), and which gives a directly opposite construction to your orders. In fact, the letter, on its face, proves that it was not the intention of the Government to occupy the Spanish posts. By referring to it, you will see that I enclosed to the Governor a copy of my orders to General Gaines, of the 16th December, 1817, authorizing him to cross the Spanish line, and to attack the Indians within the limits of Florida, unless they should take shelter under a Spanish post, in which event, he was directed to report immediately to the Department, which order Governor Bibb was directed to consider as his authority for carrying the war into Florida, thus clearly establishing the fact that the order was considered still in force, and not superseded by that to you, directing you to assume the command in the Seminole war.

Nor can my letter of the 6th of February be by any sound rule of construction, interpreted into an authority to occupy the Spanish posts, or as countenancing, on my part, such an interpretation of the orders previously given to you. Your letter of the 20th January, to which mine is an answer, bears date at Nashville, before you set out on the expedition, and consists of a narrative of the measures adopted by you, in order to bring your forces into the field, where they were directed to rendezvous, the time intended for marching, the orders for supplies given to the contractors, with other details of the same kind, without the slightest indication of your intention to act against the Spanish posts; and the approbation of the President of the measures you had adopted could be intended to apply to those detailed in your letter.

I do not think that your letter of the 13th instant presents the question, whether the Executive or yourself placed the true construction, considered as a military question, on the orders under which you acted. But I must be permitted to say, that the construction of the former is in strict conformity with my intention in drawing up the orders; and that, if they be susceptible of a different construction, it was far from being my intention they should be. I did not then suppose, nor have I ever, that it was in the power of the President, under the Constitution, to order the occupation of the posts of a nation with whom we were not at war (whatever might be the right of the General, under the law of nations, to attack an enemy sheltered under the posts of a neutral power); and had I been directed by the President to issue such order, I should have been restrained from complying by the higher authority of the Constitution, which I had sworn to support. Nor will I discuss the question, whether the order to General Gaines, inhibiting him from attacking the Spanish posts (a copy of which was sent to you), was in fact, and according to military usage, an order to you, and of course obligatory until rescinded. Such, certainly, was my opinion. I know that yours was different. You acted on your construction, believing it to be right; and, in pursuing the course I did, I claim an equal right to act on the construction which I conceived to be correct, knowing it to conform to my intentions in issuing the orders. But, in waiving now the question of the true construction of the orders, I wish it however to be understood, it is only because I do not think it presented by your letter, and not because I have now, or ever had, the least doubt of the correctness of the opinion which I entertain. I have always been prepared to discuss it on friendly terms with you, as appears by the extracts from Mr Monroe's correspondence, and more recently by my letter to you of the 30th of April, 1828, covering a copy of a letter of Major H. Lee, in which I decline

a correspondence that he had requested on the subject of the construction of your orders. In my letter to Major Lee, I stated, that, "as you refer to the public documents only for the construction which the Executive gave to the orders, I infer that on this subject you have not had access to the General's (Jackson's) private papers; but if I be in an error, and if the construction which the administration gave the orders be not stated with sufficient distinctness in the then President's correspondence with him, I will cheerfully give, as one of the members of the administration, my own views fully in relation to the orders, if it be desired by General Jackson; but it is only with him, and at his desire, that, under existing circumstances, I should feel myself justified in corresponding on this or any other subject connected with his public conduct:" to which I added, in my letter to you, covering a copy of the letter from which the above is an extract, "with you I cannot have the slightest objection to correspond on this subject, if additional information be desirable." You expressed no desire for further information, and I took it for granted that Mr. Monroe's correspondence with you, and the public documents, furnished you a full and clear conception of the construction which the Executive gave to your orders; under which impression I remained till I received your letter of the 13th instant.

Connected with the subject of your orders, there are certain expressions in your letter, which, though I am at a loss to understand, I cannot pass over in silence. After announcing your surprise at the contents of Mr. Crawford's letter, you ask whether the information be correct, "under all of the circumstances, of which you and I are both informed, that any attempt seriously to affect me was moved and sustained by you in cabinet council, when, as is known to you, I was executing the *wishes* of the Government." If by *wishes*, which you have underscored, it be meant that there was any intimation given by myself, directly or indirectly, of the

desire of the Government that you should occupy the Spanish posts, so far from being "informed," I had not the slightest knowledge of any such intimation, nor did I ever hear a whisper of any such before. But I cannot imagine that it is your intention to make a distinction between the wishes and the public orders of the Government, as I find no such distinction in your correspondence with the President, nor in any of the public documents; but, on the contrary, it is strongly rebutted by your relying for your justification constantly and exclusively on your public orders. Taking, then, the "wishes of the Government" to be but another expression for its orders, I must refer to the proof already offered, to show that the wishes of the Government, in relation to the Spanish posts, were not such as you assume them to be.

Having, I trust, satisfactorily established that there has not been the least disguise as to the construction of your orders, I will now proceed to state the part which I took in the deliberations of the cabinet. My statement will be confined strictly to myself, as I do not feel myself justified to speak of the course of the other members of the administration; and, in fact, only of my own in self-defence, under the extraordinary circumstances connected with this correspondence.

And here I must premise that the object of a cabinet council is not to bring together opinions already formed, but to form opinions on the course which the Government ought to pursue, after full and mature deliberation. Meeting in this spirit, the first object is a free exchange of sentiment, in which doubts and objections are freely presented and discussed. It is, I conceive, the duty of the members thus to present their doubts and objections, and to support them by offering fully all the arguments in their power, but at the same time to take care not to form an opinion till all the facts and views are fully brought out, and every doubt and ob-

jection carefully weighed. In this spirit I came into the meeting. The questions involved were numerous and important: whether you had transcended your orders; if so, what course ought to be adopted: what was the conduct of Spain and her officers in Florida; what was the state of our relations with Spain, and, through her, with the other European powers—a question, at that time, of uncommon complication and difficulty. These questions had all to be carefully examined and weighed, both separately and in connection, before a final opinion could be wisely formed; and never did I witness a deliberation in which every point was more carefully examined, or a greater solicitude displayed to arrive at a correct decision. I was the junior member of the cabinet, and had been but a few months in the administration. As Secretary of War, I was more immediately connected with the questions whether you had transcended your orders, and if so, what course ought to be pursued. I was of the impression that you had exceeded your orders and had acted on your own responsibility; but I neither questioned your patriotism nor your motives. Believing that where orders were transcended, investigation, as a matter of course, ought to follow, as due in justice to the Government and the officer, unless there be strong reasons to the contrary, I came to the meeting under the impression that the usual course ought to be pursued in this case, which I supported by presenting fully and freely all the arguments that occurred to me. They were met by other arguments, growing out of a more enlarged view of the subject, as connected with the conduct of Spain and her officers, and the course of policy which honor and interest dictated to be pursued towards her, with which some of the members of the cabinet were more familiar than myself, and whose duty it was to present that aspect of the subject, as it was mine to present that more immediately connected with the military operations. After deliberately weighing every question, when the members of

the cabinet came to form their final opinion, on a view of the whole ground, it was unanimously determined,* as I understood, in favor of the course adopted, and which was fully made known to you by Mr. Monroe's letter of the 19th of July, 1818. I gave it my assent and support, as being that which, under all the circumstances, the public interest required to be adopted.

I shall now turn to the examination of the version which Mr. Crawford has given of my course in this important deliberation, beginning with his "apology for having disclosed what took place in a cabinet meeting." He says; "In the summer after the meeting, an extract of a letter from Washington was published in a Nashville paper, in which it was stated that I (Mr. Crawford) had proposed to arrest General Jackson, but that he was triumphantly defended by Mr. Calhoun and Mr. Adams. This letter, I always believed, was written by Mr. Calhoun, or by his direction. It had the desired effect; General Jackson became inimical to me, and friendly to Mr. Calhoun."

I am not at all surprised that Mr. Crawford should feel that he stands in need of an apology for betraying the deliberations of the cabinet. It is, I believe, not only the first instance in our country, but one of a very few instances to be found in any country, or any age, that an individual has felt absolved from the high obligation which honor and duty impose on one situated as he was. It is not, however, my intention to comment on the morality of his disclosures: that more immediately concerns himself; and I leave him undisturbed to establish his own rules of honor and fidelity in order to proceed to the examination of a question in which I am more immediately concerned—the truth of his apology.

* *Acquiesced* would probably be more correct, at least as applicable to one member of the cabinet.

I desire not to speak harshly of Mr. Crawford. I sincerely commiserate his misfortune. I may be warm in political contests, but it is not in me to retain enmity, particularly towards the unsuccessful. In the political contest which ended in 1825, Mr. Crawford and myself took opposite sides; but whatever feelings of unkindness it gave rise to have long since passed away on my part. The contest ended in an entire change of the political elements of the country; and, in the new state of things which followed, I found myself acting with many of the friends of Mr. Crawford, to whom I had been recently opposed, and opposed to many of my friends, with whom I had, till then, been associated. In this new state of things, my inclination, my regard for his friends who were acting with me, and the success of the cause for which we were jointly contending,—all contributed to remove from my bosom every feeling towards him, save that of pity for his misfortune. I would not speak a harsh word, if I could avoid it; and it is a cause of pain to me that the extraordinary position in which he has placed me, compels me, in self-defence, to say any thing which must, in its consequence, bear on his character.

I speak in this spirit when I assert, as I do, that his apology has no foundation in truth. He offers no reason for charging me with so dishonorable an act as that of betraying the proceedings of the cabinet, and that for the purpose of injuring one of my associates in the administration. The charge rests wholly on his suspicion, to which I oppose my positive assertion that it is wholly unfounded. I had no knowledge of the letter, or connection with it; nor do I recollect that I ever saw the extract. But why charge me, and not Mr. Adams ?* I had then been but a few months in

* I wish not to be understood as intimating that Mr. Adams had the least connection with the affair. I believe him to be utterly incapable of such baseness.

the administration, and Mr. Crawford and myself were on the best terms, without a feeling, certainly on my part, of rivalry or jealousy. In assigning the motive that he does for the letters, he forgets the relation which existed then between you and himself. He says it had the desired effect; that you became friendly to me, and extremely inimical to him. He does not remember that your hostility to him long preceded this period, and had a very different origin. He certainly could not have anticipated that a copy of his letter would be placed in your hand.

These are not the only difficulties accompanying his apology: there are others still more formidable, and which must compel him to assign some other reason for disclosing the proceedings of the cabinet.

Mr. McDuffie's letter* to me, of the 14th instant, of which I enclose a copy, proves that Mr. Crawford spoke freely of the proceedings of the cabinet on his way to Georgia, in the summer of 1818; and dates will show that he could not at that time have seen the extract from the Nashville paper, on which he now rests his apology. The deliberation of the cabinet took place between the 14th and 25th July, 1818. On the former day, Mr. Monroe returned to Washington from London, and on the latter a general exposition of the views of the Government in relation to the operations in Florida appeared in the Intelligencer. The letter of Mr. Monroe to you, of the 19th July, 1818, fixes probably the day of the *final* decision of the cabinet. Mr. Crawford passed through Augusta on the 11th August, as announced in the papers of that city, on which day, or the preceding, his conversation, to which Mr. McDuffie's letter relates, must have taken place. On a comparison of these dates, you will see that it was impossible that Mr. Crawford could have seen the extract from the Nashville paper when he was in Edgefield, and he

* The letter of the Hon. George McDuffie, marked G.

must consequently find some other apology for his disclosures. This was not the only instance of his making the disclosures before he saw the extract. He was at Milledgeville on the 16th of August, 1818, a few days after he passed through Augusta; and a little after, there appeared a statement in the Georgia Journal, somewhat varied from that made in Edgefield, but agreeing with it in most of the particulars. I cannot lay my hand on the article, but have a distinct recollection of it. You no doubt remember it. Circumstances fixed it on Mr. Crawford, and it has not, to my knowledge, been denied.

With such evidence of inaccuracy, either from want of memory, or some other cause, in what relates to his own motives and actions, it would be unreasonable to suppose that Mr. Crawford's statements will prove more correct in what relates to me. I will now proceed to examine them. He first states that I proposed that you should "be punished in some form, or reprimanded in some form;" and to make my course more odious, as I suppose, he adds, that "Mr. Calhoun did not propose to arrest General Jackson." I will not dwell on a statement which, on its face, is so absurd. How could an officer under our law be punished without arrest and trial? And to suppose that I proposed such a course, would indeed be to rate my understanding very low.

The next allegation requires much more attention. He says: "Indeed, my own views on the subject had undergone a material change after the cabinet had been convened. Mr. Calhoun made some allusion to a letter that General Jackson had written to the President, who had forgotten that he had received such a letter, but said if he had received such a one, he would find it, and went directly to his cabinet, and brought it out. In it General Jackson approves of the determination of the Government to break up Amelia Island and Galveston; and gave it also as his opinion that

Florida ought to be taken by the United States. He added, it might be a delicate matter for the Executive to decide, but if the President approved of it, he had only to give a hint to some confidential member of Congress, say Johnny Ray, and he would do it, and take the reponsibility on himself. I asked the President if the letter had been answered: he replied, no; for that he had no recollection of receiving it. I then said that I had no doubt that General Jackson, in taking Pensacola, believed he was doing what the Executive wished. After that letter was produced, unanswered, I should have opposed the infliction of punishment on General Jackson, who had considered the silence of the President as a tacit consent; yet it was after the letter was produced and read, that Mr. Calhoun made the proposition to the cabinet for punishing the General." Again: "I do not know that I ever hinted at the letter to the President, yet that letter had a most important bearing on the deliberations of the cabinet, at least in my mind, and possibly on the minds of Mr. Adams and the President, but neither expressed any opinion on the subject. It seems it had none on the mind of Mr. Calhoun, for it made no change in his conduct."

It will be no easy matter for Mr. Crawford to reconcile the statement which he has thus circumstantially made, with his conduct in relation to the Seminole affair, from the time of the decision of the cabinet till the subject ceased to be agitated.

How will he, in the first instance, reconcile it with his Edgefield statement, of which Mr. McDuffie's letter gives an account? The contrast between that and the present is most striking; to illustrate which, I will give an extract from Mr. McDuffie's letter. Mr. McDuffie's letter says, that "he" (Mr. Crawford) "stated that you" (Mr. Calhoun) "had been in favor of an inquiry into the conduct of General Jackson, and that he was the only member of the cabi-

jection carefully weighed. In this spirit I came into the meeting. The questions involved were numerous and important: whether you had transcended your orders; if so, what course ought to be adopted: what was the conduct of Spain and her officers in Florida; what was the state of our relations with Spain, and, through her, with the other European powers—a question, at that time, of uncommon complication and difficulty. These questions had all to be carefully examined and weighed, both separately and in connection, before a final opinion could be wisely formed; and never did I witness a deliberation in which every point was more carefully examined, or a greater solicitude displayed to arrive at a correct decision. I was the junior member of the cabinet, and had been but a few months in the administration. As Secretary of War, I was more immediately connected with the questions whether you had transcended your orders, and if so, what course ought to be pursued. I was of the impression that you had exceeded your orders and had acted on your own responsibility; but I neither questioned your patriotism nor your motives. Believing that where orders were transcended, investigation, as a matter of course, ought to follow, as due in justice to the Government and the officer, unless there be strong reasons to the contrary, I came to the meeting under the impression that the usual course ought to be pursued in this case, which I supported by presenting fully and freely all the arguments that occurred to me. They were met by other arguments, growing out of a more enlarged view of the subject, as connected with the conduct of Spain and her officers, and the course of policy which honor and interest dictated to be pursued towards her, with which some of the members of the cabinet were more familiar than myself, and whose duty it was to present that aspect of the subject, as it was mine to present that more immediately connected with the military operations. After deliberately weighing every question, when the members of

of Georgia, now no more, was then a prominent member of the House of Representatives. He was the particular, personal, and confidential friend of Mr. Crawford, his near neighbor, and formerly a law student under him. What part did he take? He led the attack; he moved the resolutions against you; he accused you expressly of the violation of your orders, and sustained the accusation with all his powers.* All this accords with Mr. Crawford's statement of his sentiment and his course at the time; but how can it be reconciled with his present statement? How could he, on any principle of justice, stand by and hear you thus falsely accused, in the face of the world, when he, according to his showing now, knew that it was all false? And how can he reconcile his silence then, when you stood so much in need of his assistance, with his disclosures now, when the agitation has long since passed away, and his aid no longer required? But let us turn to the other branch of the Legislature, and see whether any occurrence there can explain this apparent mystery. General Lacock, of Pennsylvania, the particular friend of Mr. Crawford, and in the habit of constant intercourse with him, was the chairman of the committee in that body to whom the part of the message which related to the Seminole war was referred. Mr. Forsyth, then and now a Senator from Georgia, and who now acts a prominent part in the transaction which has given rise to the present correspondence, was also a member, and was then, as he is now, an intimate, personal, and political friend of Mr. Crawford. With two such able and influential friends on the committee, he had the most favorable opportunity that could be offered to do you justice. According to his own statement, he felt no obligation to observe silence in relation to the proceedings of the cabinet. Why, then, did he not interpose with his friends on the committee to do you justice?

* See letter H—Letters from Hon. Robert Garnett.

That he did not, I need not offer you arguments to prove. The report of the committee is sufficient testimony. Should he say that he was restrained by feelings of delicacy from interfering with his friends on the committee, how will he reconcile, on the principles of justice and honor, his silence after the report so severely assailing your motives and conduct was made, when, admitting his present statement, it was completely in his power to shield you from censure?

But why should I waste time and words to prove that Mr. Crawford's whole course is in direct conflict with his present statement of the proceedings of the cabinet, when there remains an objection that cannot be surmounted? The statement is entirely destitute of foundation. It is not true. Strange as it may appear, after an account so minute and circumstantial, no such letter as he refers to was ever before the cabinet, or alluded to in its deliberations. My memory is distinct and clear, and is confirmed by the no less distinct recollection of Mr. Monroe and Mr. Wirt, as will fully appear by copies of their statements, herewith enclosed. Feelings of delicacy, growing out of the political relation of Mr. Adams and Mr. Crowninshield, the other members of the then administration, both towards you and myself, have restrained me from applying for their statements, but I have not the least apprehension that they would vary from Mr. Monroe's or Mr. Wirt's.*

Comment is useless. I will not attempt to explain so gross a misstatement of the proceedings of the cabinet, but will leave it to those friends of Mr. Crawford who have placed him in this dilemma to determine whether his false statement is to be attributed to an entire decay of memory, or to some other cause; and if the former, to exempt themselves

* See my letter to Mr. Monroe and Mr. Wirt, and their answers; also, letter to Mr. Adams, and his answer, written since the date of this letter. Mr. Crowninshield, the other member of the cabinet, was absent; see his letter. See letters, J, K, L, M, N, O, P.

from the responsibility of thus cruelly exposing a weakness which it was their duty to conceal.

It now becomes necessary to say something of your letter of the 6th January, to which Mr. Crawford has given, in his statement, so much prominence. My recollection in relation to it accords with Mr. Monroe's statement. I came into his room when he had apparently just received the letter. He was indisposed at the time. I think he opened the letter in my presence, and, finding that it was from you, he gave me the letter to read. I cast my eyes over it, and remarked that it related to the Seminole affair, and would require his attention, or something to that effect: I thought no more of it. Long after, I think it was at the commencement of the next session of Congress, I heard some allusion which brought the letter to my recollection. It was from a quarter which induced me to believe that it came from Mr. Crawford. I called, and mentioned it to Mr. Monroe, and found that he had entirely forgotten the letter. After searching some time, he found it among some other papers, and read it, as he told me, for the first time.

Having stated these facts, I should be wanting in candor were I not also to state, that, if the facts had been otherwise, had Mr. Monroe read your letter, and intentionally omitted to answer it, and had it been brought before the cabinet, in my opinion it would not have had the least influence on its deliberation. The letter was not received till several weeks after the orders to you were issued, and could not, therefore, as you know, have had any influence in drawing them up; and such, I conceive, was your opinion, as I do not find any allusion to the letter in your public or private correspondence at the time, which would not have been the case, had it, in your opinion, formed a part of your justification. You rested your defence on what I conceive to be much more elevated ground—on the true construction, as you supposed, of your orders, and the necessity of the mea-

must consequently find some other apology for his disclosures. This was not the only instance of his making the disclosures before he saw the extract. He was at Milledgeville on the 16th of August, 1818, a few days after he passed through Augusta; and a little after, there appeared a statement in the Georgia Journal, somewhat varied from that made in Edgefield, but agreeing with it in most of the particulars. I cannot lay my hand on the article, but have a distinct recollection of it. You no doubt remember it. Circumstances fixed it on Mr. Crawford, and it has not, to my knowledge, been denied.

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into my hand, under cover of your letter of the 13th instant —a copy with important blanks, and unaccompanied with Mr. Forsyth's letter, with its inclosures, to which Mr. Crawford's is in answer.

Why is this so? Why did not Mr. Forsyth himself show me the letter—the original letter? By what authority did he place a copy in your hands? None is given by the writer. Why is your name interposed? Was it to bring me into conflict with the President of the United States? If the object of the correspondence between Mr. Crawford and Mr. Forsyth be to impeach my conduct, as it would seem to be, by what rule of justice am I deprived of evidence material to my defence, and which is in the hands of my accusers—of a copy of Mr. Forsyth's letter, with the inclosures; of a statement of the conversation and correspondence of the two individuals whose names are in blank in the copy of Mr. Crawford's letter furnished me? Why not inform me who they are? Their testimony might be highly important, and even their *names alone* might throw much light on this mysterious affair.

I must be frank. I feel that I am deprived of important rights by the interposition of your name, of which I have just cause to complain. It deprives me of important advantages, which would otherwise belong to my position. By the interposition of your name, the communication which would exist between Mr. Forsyth and myself, had he placed Mr. Crawford's letter in my hands, as he was authorized to do, is prevented, and I am thus deprived of the right which would have belonged to me in that case, and which he could not in justice withhold, of being placed in possession of all the material facts and circumstances connected with this affair. In thus complaining, it is not my intention to attribute to you any design to deprive me of so important an advantage. I know the extent of your public duties, and how completely they engross your attention. They have not allowed you

sufficient time for reflection in this case, of which evidence is afforded by the ground you assume in placing the copy of Mr. Crawford's letter in my hand, which you state was submitted by his authority. I do not so understand him; the authority was, as I conceive, to Mr. Forsyth, and not to yourself, and applied to the original letter, and not to the copy, both of which, as I have shown, are very important in this case, and not mere matters of form. I have asked the question, Why is this affair brought up at this late period, and in this remarkable manner? It merits consideration, at least from myself. I am in the habit of speaking my sentiments and opinions freely, and I see no cause which ought to restrain me on the present occasion. I should be blind not to see that this whole affair is a political manœuvre, in which the design is that you should be the instrument, and myself the victim, but in which the real actors are carefully concealed by an artful movement. A naked copy, with the names referred to in blank, affords slender means of detection; while, on the contrary, had I been placed, as I ought to have been, in possession of all the facts to which I was entitled, but little penetration would probably have been required to see through the whole affair. The names which are in blank might of themselves, through their political associations, point directly to the contrivers of this scheme. I wish not to be misunderstood. I have too much respect for your character to suppose you capable of participating in the slightest degree in a political intrigue. Your character is of too high and generous a cast to resort to such means, either for your own advantage or that of others. This the contrivers of the plot well knew; but they hoped through your generous attributes, through your lofty and jealous regard for your character, to excite feelings through which they expected to consummate their designs. Several indications forewarned me, long since, that a blow was meditated against me; I will not say from the quarter from which this comes;

but in relation to this subject, more than two years since, I had a correspondence with the District Attorney for the Southern District of New York, on the subject of the proceedings of the cabinet on the Seminole war, which, though it did not then excite particular attention, has since, in connection with other circumstances, served to direct my eye to what was going on.

Of Mr. Crawford I speak with pain, and only in self-defence; but, that you may more fully realize the spirit which actuates him, and how little scrupulous he is of the means he uses where I am concerned, I would refer you for illustration to facts in the possession of one who stands to you in the relation of a constitutional adviser, and who from his character is entitled to your entire confidence; I mean the Postmaster General. No one knows better than yourself how sacred the electoral college for the choice of President and Vice-President should be considered in our system of government. The electors are the trustees of the high sovereign power of the people of the States, as it relates to the choice of those magistrates; and on the degree of fidelity with which the trust may be discharged depends, in a great degree, the successful operation of our system. In order to prevent, as far as practicable, political intrigue, or the operation of extraneous influence on the choice of the electoral college, it is provided that they shall meet in their respective States, and that they shall vote, throughout the Union, on the same day, and be selected within thirty-four days of the time designated for the election; thus excluding with the greatest care all other influence on the choice of the electors, except the will of their constituents; but where the object was to injure me, the sacred character of the college was an insufficient restraint. Mr. Crawford wrote to Major Barry in October, 1828, (a copy of whose letter he has furnished me at my request,) requesting him earnestly to use his influence with the electors not to vote for me as Vice President,

though he could not be ignorant that I had been nominated for that office, on the preceding 8th January, when your friends nominated you, in a State convention, for the high station which you now hold, and that the electors were pledged to vote for you as President, and myself as Vice-President. This is not the only instance of his interference. He pursued the same course in Tennessee and Louisiana, as I am informed on the highest authority.

At an earlier period, he resorted to means not much less objectionable to injure my standing, and to influence, so far as I was concerned, the election. I am not ignorant of his correspondence with that view, and which, I feel confident, has not escaped your observation. But I will not dwell on this disagreeable subject. I have no resentment towards Mr. Crawford. I have looked on in silence, without resorting to any means to counteract the injury which he intended me; and I now depart from the rule which I have carefully observed ever since the termination of the presidential election in 1825, because his present attack comes through a channel, my high respect for which would not permit me to be silent. I have, however, in noticing what I could not pass over, situated as I now am, endeavored to limit myself by the line of self-defence, and if I have apparently gone beyond in making any remarks on his conduct which his letter did not naturally suggest, my apology will be found in the necessity of showing the state of his feelings towards me, so that the motive which influenced him in the course which has caused this correspondence may be fully understood.

I am, sir, very respectfully,

Your obedient servant,

JOHN C. CALHOUN.

President JACKSON.

No. 4.

General Jackson to Mr. Calhoun.

May 30th, 1830.

SIR:—Your communication of the 29th instant was handed me this morning just as I was going to church, and of course was not read until I returned.

I regret to find that you have entirely mistaken my note of the 13th instant. There is no part of it which calls in question either your conduct or your motives in the case alluded to. Motives are to be inferred from actions, and judged of by our God. It had been intimated to me many years ago, that it was you, and not Mr. Crawford, who had been secretly endeavoring to destroy my reputation. These insinuations I indignantly repelled, upon the ground that you, in all your letters to me, professed to be my personal friend, and approved *entirely* my conduct in relation to the Seminole campaign. I had too exalted an opinion of your honor and frankness, to believe for one moment that you could be capable of such deception. Under the influence of these friendly feelings (which I always entertained for you), when I was presented with a copy of Mr. Crawford's letter, with that frankness which ever has, and I hope ever will characterize my conduct, I considered it due to you, and the friendly relations which had always existed between us, to lay it forthwith before you, and ask if the statements contained in that letter could be true. I repeat, I had a right to believe that you were my sincere friend, and, until now, never expected to have occasion to say of you, in the language of Cæsar, *Et tu Brute.* The evidence which has brought me to this conclusion is abundantly contained in your letter now before me. In your and Mr. Crawford's dispute I have no interest whatever; but it may become necessary for me hereafter, when I shall have more leisure, and the documents at hand, to place the subject in its proper light; to

notice the historical facts and references in your communication, which will give a very different view of this subject.

It is due to myself, however, to state that the knowledge of the Executive documents and orders in my possession will show conclusively that I had authority for all I did, and that your explanation of my powers, as declared to Governor Bibb, shows your own understanding of them. Your letter to me of the 29th, handed to-day, and now before me, is the first intimation to me that *you* ever entertained any other opinion or view of them. Your conduct, words, actions, and letters, I have ever thought, show this. Understanding you now, no further communication with you on this subject is necessary.

I have the honor to be
Very respectfully,
Your most obedient servant,
ANDREW JACKSON.

To the Hon. J. C. CALHOUN.

No. 5.

Mr. Calhoun to General Jackson.

STEAMBOAT POTOMAC, *June 1st*, 1830.

SIR :—Though you intimate, in your letter of yesterday, that no further communication with me is necessary on the subject to which it refers, I feel myself impelled to notice some of your remarks, lest my silence should be construed into an acquiescence in their truth or justness. I shall be as brief as possible.

You say that I have entirely mistaken your letter of the 13th May, in supposing that it questioned either my motives or conduct. I am not aware that I have imputed to you an impeachment of my motives ; but I certainly did understand that you had questioned the sincerity and frankness of my conduct ; and I must add that your present

into my hand, under cover of your letter of the 13th instant —a copy with important blanks, and unaccompanied with Mr. Forsyth's letter, with its inclosures, to which Mr. Crawford's is in answer.

Why is this so? Why did not Mr. Forsyth himself show me the letter—the original letter? By what authority did he place a copy in your hands? None is given by the writer. Why is your name interposed? Was it to bring me into conflict with the President of the United States? If the object of the correspondence between Mr. Crawford and Mr. Forsyth be to impeach my conduct, as it would seem to be, by what rule of justice am I deprived of evidence material to my defence, and which is in the hands of my accusers—of a copy of Mr. Forsyth's letter, with the inclosures; of a statement of the conversation and correspondence of the two individuals whose names are in blank in the copy of Mr. Crawford's letter furnished me? Why not inform me who they are? Their testimony might be highly important, and even their *names alone* might throw much light on this mysterious affair.

I must be frank. I feel that I am deprived of important rights by the interposition of your name, of which I have just cause to complain. It deprives me of important advantages, which would otherwise belong to my position. By the interposition of your name, the communication which would exist between Mr. Forsyth and myself, had he placed Mr. Crawford's letter in my hands, as he was authorized to do, is prevented, and I am thus deprived of the right which would have belonged to me in that case, and which he could not in justice withhold, of being placed in possession of all the material facts and circumstances connected with this affair. In thus complaining, it is not my intention to attribute to you any design to deprive me of so important an advantage. I know the extent of your public duties, and how completely they engross your attention. They have not allowed you

trovert the correctness of either my statement or conduct in this affair, I shall be prepared on my part to maintain the truth of the one, and frankness, honor, and patriotism of the other, throughout this whole transaction.

That you honestly thought that your orders authorized you to do what you did, I have never questioned; but that you can show by any document, public or private, that they were intended to give you the authority which you assumed, or that any such construction was placed on them, at any time, by the administration, or myself in particular, I believe to be impossible.

You remark that my letter of the 29th instant is the first intimation you had that I had taken a different view from yourself of your orders. That you should conceive that you had no intimation before, is to me unaccountable. I had supposed that the invitation of Mr. Monroe, in his letter to you of the 20th October, 1818, with the intention that the different views taken by you and myself of the orders should be placed on the files of the Department, and my letter to you of the 13th April, 1828, covering a copy of my letter to Major Lee, in which I refer to the public documents, and private correspondence between you and Mr. Monroe, as containing the views taken of your orders, and the offer which I made to present my views more fully, if not given sufficiently explicit in the documents referred to, were at least an intimation that we differed in the construction of the orders; and I feel assured that neither "my conduct, words, actions, or letters," afford the slightest proof to the contrary.

The charge which you have made against me, of secret hostility and opposition, which, if true, would so vitally affect my character for sincerity and honor, and which has caused a rupture in our long continued friendship, has no other foundation but that of a difference between us in the construction of your orders—orders issued by myself, the inten-

tion of which I, of course, could not mistake, whatever may be their true construction in a military point of view, and the right and duty of interpreting which belonged especially to me, as the head of the War Department. The mere statement of these facts must give rise to a train of reflections, the expression of which I cannot suppress.

Your course, as I understand it, assumes for its basis that I, who, as Secretary of War, issued the orders, have some motive to conceal my construction of them, as if I had no right to form an opinion whether the officers to whom they were given had transcended them or not, while the officer was at perfect liberty to express and maintain his construction. My right, as Secretary of War, was at least as perfect as yours, as commanding officer, to judge of the true intent and limits of your orders; and I had no more motive to conceal my construction of them than you had to conceal yours. The idea of concealment never entered my conception; and to suppose it, is to suppose that I was utterly unworthy of the office which I occupied. Why should I conceal? I owed no responsibility to you; and if you were not afraid to place your construction on your orders, why should I be afraid to place mine? It was an affair of mere official duty, involving no question of private enmity or friendship, and I so treated it.

In conclusion, I must remark, that I had supposed the want of sincerity and frankness would be the last charge that would be brought against me. Coming from a quarter from which I had reason to expect far different treatment, and destitute, as I know it to be, of the slightest foundation, it could not fail to excite feelings too warm to be expressed, with a due regard to the official relation which I bear to you.

I have the honor to be,

Very respectfully,

Your most obedient servant,

Gen. A. Jackson. J. C. Calhoun.

No. 6.

Mr. Forsyth to Mr. Calhoun.

GEORGETOWN, DISTRICT OF COLUMBIA, *May* 31*st*, 1830.

SIR,—Having, at the request of the President to be informed what took place in the cabinet of Mr. Monroe on the subject of the Seminole campaign, laid before him a copy (except the omission of a name) of a letter from Mr. Crawford, which has since been communicated to you, the President has thought it just to permit me to read your answer of the 29th inst. to his letter enclosing it. Between you and the President, or between you and Mr. Crawford, or between you and the friends of Mr. Crawford, when spoken of *in general*, it is not my design to intervene. There are, however, circumstances in your letter, of a personal character, that require to be placed in their true light, in justice to you and to myself. As to the first, you complain that the interposition of the name of the President deprives you of important rights: among these is enumerated "the right of being placed (by me) in possession of all the facts and circumstances connected with this affair." So far as I understand the point on which the President desired information, there is no circumstance or fact within my knowledge that can throw any additional light upon it. There is certainly no fact or circumstance within my knowledge, directly or collaterally connected with it, that is not at your service.

If desirable to you, you shall be furnished with a copy of my letter (a copy of it is in the President's hands) referred to in Mr. C.'s letter to me, and with the name of the gentleman to whom it was written, known also to the President. I cannot promise a copy of the letter from Savannah, to which my first was an answer, as I am not sure that it is in being; if it is, and can be found on my return to Georgia, you can have a copy of it. Having thus offered justice, according to your view of it, you will not be surprised that I should expect justice in return. Your answer to the Presi-

dent seems to be founded upon the presumption that there is some conspiracy secretly at work to do injury to your character, and to destroy your political consequence. With this presumption I have no concern; but the circumstances under which my name is introduced by you render it proper that I should be distinctly informed if this charge of conspiracy against you is intended to apply to me.

In justice to Mr. C., and for his use, I shall apply to the President for a copy of your letter of the 29th instant. If you have any objection, you will state it. I shall take it for granted that you acquiesce, unless otherwise informed.

I am, Sir, your obedient servant,

JOHN FORSYTH.

Hon. JOHN C. CALHOUN.

No. 7.

Mr. Calhoun to Mr. Forsyth.

STEAMBOAT POTOMAC, 1*st June*, 1830.

SIR,—I have just received your letter of the 31st ultimo, which was handed me by Mr. Archer. It gives me the first intimation I have had, that the President applied to you to obtain information of what took place in the cabinet of Mr. Monroe on the subject of the Seminole campaign; and, of course, as I suppose, that you were acting for him, and not for yourself, in your correspondence with Mr. Crawford. Neither the copy of his letter to you, placed in my hands by the President, nor his note covering the copy, gave me the slightest intimation of this fact; but, on the contrary, I had a right to presume, from Mr. Crawford giving you authority to show me his letter if you pleased, that the correspondence originated with yourself, and was under your entire control, and not, as I now infer, "at the request of the President, and for his use." The view in which I regarded the correspondence, and which I was justified in doing, judging by the

facts before me, fully explains my remarks in my letter to the President, as far as you were concerned with them.

In the direction which this affair has taken, it is not for me to determine whether you ought to furnish me any information, or what it ought to be. Had I supposed, that, under the circumstances in which I was placed, such a right belonged to me, I would have claimed it previously to my answer to the President's letter, so as to have had the advantage, before I made my reply, of whatever light might be furnished from the sources I therein indicated. That there are those who intend that this affair shall operate against me politically, by causing a rupture between myself and the President, and thereby affect, if possible, my standing with the nation, I cannot doubt, for reasons which I have stated in my answer to the President; but I must be permitted to express my surprise that you should suppose that my remarks comprehended you, when they expressly referred to those whose names did not appear in the transaction, and consequently excluded you.

My answer to the President is his property, and not mine; and consequently it belongs to him, and not to me, to determine to whom he shall, or shall not, give copies.

I am, very respectfully, &c.

J. C. CALHOUN.

Hon. JOHN FORSYTH.

No. 8.

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PENDLETON, *June 22d*, 1830.

SIR,—I embrace the first leisure moment since my return home to enclose to you a copy of a letter from Mr. Forsyth, the original of which was handed to me on my passage from Washington to Norfolk, on board the steamboat, and also a copy of my answer.

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SIR,—I embrace the first leisure moment since my return home to enclose to you a copy of a letter from Mr. Forsyth, the original of which was handed to me on my passage from Washington to Norfolk, on board the steamboat, and also a copy of my answer.

You will learn, by a perusal of Mr. Forsyth's letter, that it refers to the correspondence between us, and that it places the subject of that correspondence in a light in some respects different from what I had previously regarded it. I had supposed, from the complexion of your letters to me, that the copy of Mr. Crawford's letter to Mr. Forsyth had been placed by the latter in your hands, without any previous act or agency on your part; but, by Mr. Forsyth's letter to me, I am informed that such is not the fact. It seems that he acted as your agent in the affair. He states that you applied to him to be informed of what took place in the cabinet of Mr. Monroe on the subject of the Seminole campaign; and I infer, as the information could be obtained only from some one of the members of the cabinet, and as Mr. Forsyth was not one, and, so far as I am informed, not particularly intimate with any of its members, except Mr. Crawford, that the object of your request was to obtain the information through Mr. Forsyth from Mr. Crawford, and that, consequently, in writing to him, and in placing the copy of his letter in your hands, he can be regarded in no other light but that of your agent.

Under this new aspect of this affair, I conceive that I have the right to claim of you to be put in possession of all the additional information, which I might fairly have demanded of Mr. Forsyth, had the correspondence been originally between him and myself, on the supposition on which I acted previously to the receipt of his letter. He avows himself ready, if desired by me, to furnish me with the additional information; but a sense of propriety would not permit me to make the request of him. Considered as *your agent* in this affair, it is not *for me* to make the request of information *of him*. What additional information I conceive myself to be entitled to, my letter to you of the 29th May will sufficiently indicate. A part of the information, it seems from Mr. Forsyth's letter, is already in your posses-

sion, and there can be no doubt but the whole would be furnished at your request.

I make this application solely from the desire of obtaining the means of enabling me to unravel this mysterious affair. Facts and circumstances, slight of themselves, may, when viewed in connection, afford important light as to the origin and object of what I firmly believe to be a base political intrigue, got up by those who regard your reputation and the public interest much less than their own personal advancement.

I must remark, in conclusion, that the letter of Mr. Forsyth affords to my mind conclusive proof that the intimations to my prejudice, to which you refer in your letter of the 30th ultimo, and which you seem to think made no impression on your mind, have not been without their intended effect. On no other supposition can I explain the fact, that, without giving me any intimation of the step, you should apply for information, as to my course in the cabinet, to one whom you knew to be hostile to me as Mr. Crawford is, and who could not, as you know, make the disclosure consistently with the principles of honor and fidelity, when my previous correspondence with you ought to have satisfied you that I was prepared to give you, frankly and fully, any information which you might desire, in relation to my course on the occasion.

J. C. CALHOUN.

To President JACKSON.

No. 9.

General Jackson to Mr. Forsyth.

WASHINGTON, *June 7th*, 1830.

SIR,—I have received your letter of the 2d instant, enclosing a copy of your letter to Mr. Calhoun, of the 31st ultimo, and his reply thereto, all which I have duly noted.

You have requested a copy of Mr. Calhoun's letter to me of the 29th of May last, for the purpose of its being shown to Mr. Crawford. Mr. Calhoun, in his reply to you, does not consent, nor yet object, to your being furnished with a copy, but refers the matter to my discretion.

A copy of the original letter of Mr. Crawford to you having been submitted to me, it occurred as being proper and correct that you should be apprised of Mr. Calhoun's answer, and therefore it was shown to you. I cannot, on reflection, perceive any impropriety in now according to you the request you have made, particularly as, on your referring this matter to Mr. Calhoun, he does not object. I accordingly send it, with this injunction, that it be used for no other purpose but the one you have stated, to be shown to Mr. Crawford.

In the letter which you have addressed to Mr. Calhoun, you state as follows, to wit: "Having, at the request of the President to be informed what took place in the cabinet of Mr. Monroe on the subject of the Seminole campaign, laid before him a copy (except the omission of a name) of a letter from Mr. Crawford," &c. &c. This is construed by Mr. Calhoun into a declaration that I requested you to furnish me with the information. I am satisfied it was not by you so intended, and I would be glad you would so explain it to him. I never conversed with you upon this subject previous to the time when you sent me Mr. Crawford's letter. The facts are these: I had been informed that Mr. Crawford had made a statement concerning this business, which had come to the knowledge of Col. James A. Hamilton, of New York. On meeting with Col. Hamilton, I inquired of him, and received for answer that he had, but remarked that he did not think it proper to communicate without the consent of the writer. I answered, that, being informed that the Marshal of this District had, to a friend of mine, made a similar statement to that said to have been made by Mr. Crawford, I would be

glad to see Mr. Crawford's statement, and desired he would write and obtain his consent. My reasons were, that I had, from the uniform friendly professions of Mr. Calhoun, always believed him my friend in all this Seminole business; and I had a desire to know if in this I had been mistaken, and whether it was *possible* for Mr. Calhoun to have acted with such insincerity and duplicity towards me.

I have enclosed Mr. Calhoun a copy of this letter;

And am, Sir, with respectful regard,

Your most obedient servant,

ANDREW JACKSON.

The Hon. JOHN FORSYTH, *Senator in Congress.*

No. 9.—(Continued.)

Mr. Forsyth to General Jackson.

AUGUSTA, *June 17th*, 1830.

SIR,—I have had the honor to receive your letter of the 7th instant, and the copy papers enclosed with it. The papers will be shown to Mr. Crawford, and no other use made of them by me.

I did not intend to convey to Mr. Calhoun the idea that any personal communication ever took place between us, prior to the date of Mr. Crawford's letter, relative to the occurrences in Mr. Monroe's cabinet on the question of the Seminole war. What I intended he should know, and I suppose will now understand, if I have inadvertently misled him, is, that I did not volunteer to procure the information contained in Mr. Crawford's letter, but that it was obtained for your use in compliance with your request. Major Hamilton requested me, in your name, to give to you what I had previously given to him—Mr. Crawford's account of the transaction. With this request I complied, after having first obtained Mr. Crawford's consent, and received from him his

correction of a mistake I had made in repeating his verbal statement.

I have the honor to be, &c.

JOHN FORSYTH.

Gen. ANDREW JACKSON, *President of the United States.*

AUGUSTA, *June 17th*, 1830.

SIR,—Gen Jackson having sent to you a copy of his letter to me of the 8th instant, it is proper that you should see the answer to it; you will find a copy on the opposite page.

I am, Sir, with respect,

JOHN FORSYTH.

Hon. JOHN C. CALHOUN.

No. 9.—(Continued.)

General Jackson to Mr. Calhoun.

WASHINGTON, *June 7th*, 1830.

SIR,—On the 5th inst. I received a letter from Mr. Forsyth of the Senate, requesting a copy of your letter to me of the 29th of May last. I have not been able to perceive any objections to comply with his request. A copy of my letter to him on this subject, I have thought it proper, should be sent to you; it is therefore enclosed.

I am, Sir, very respectfully,

Your most obedient servant,

ANDREW JACKSON.

The Hon. J. C. CALHOUN, *Vice-President of the U. States.*

No. 10.

General Jackson to Mr. Calhoun.

HERMITAGE, *June 19th*,* 1830.

SIR,—Your letter of the 22d June last has just been re-

* Intended probably for the 19th July.

ceived, via Washington city. I regret that mine to you of the 7th of May, covering a copy of one to Mr. Forsyth from me of the same date, had not reached you, as it would have prevented you from falling into the gross errors you have, from the unfounded inferences you have drawn from Mr. Forsyth's letter to me, and would have informed you that I had no conversation or communication with Mr. Forsyth on the subject alluded to, before the receipt of the copy of Mr. Crawford's letter, which I so promptly laid before you. To correct the errors into which the inferences you have drawn from Mr. Forsyth's letter have led you, I herewith again enclose you a copy of my letter to Mr. Forsyth of the 7th of May, and his answer thereto of the 17th June last, which I received on the 8th instant, and I have to regret that any interruption of the mail prevented your receipt of mine of the 7th of May, which was mailed the same time mine to Mr. Forsyth was.

Mr. Forsyth having promised, in his letter to me of the 17th June, that he would explain, and by letter correct you in the unjust and unfounded inferences which you had drawn from his letter; and I must add here, for your information, that, if I understood your other allusions, they are as equally unfounded. I have never heard it even intimated, except in your letter, that the individual to whom I suppose you allude had the slightest knowledge on the subject, or the most remote agency in the matter. In conclusion, I repeat, I have always met the intimations of your having made before the cabinet, in secret council, against me, injurious movements, with flat and positive denial, and brought into view, by way of rebutter, your uniform and full approval of my whole conduct on the Seminole campaign, so far as I, or any of my friends, had heard you on the subject; and the high character you sustained for fair, open, and honorable conduct in all things was entirely opposed to the secret, uncandid, and unmanly course ascribed to you by those intimations,

and I banished from my mind what I conceived to be unjust imputations upon your honor, by ascribing duplicity to you, and never, until after the intimations were communicated to me of the suggestions of the Marshal, as stated in my letter to Mr. Forsyth (a copy of which was enclosed to you). It was then that I had a desire to see the statement said to have been made by Mr. Crawford, and, when information (informed) by Colonel Hamilton that such statements had been seen in writing, that I made the request to see it, with the object of laying it before you, which I then supposed would meet your prompt and positive negative. But I regret that instead of a negative, which I had a right to expect, I had the poignant mortification to see in your letter an admission of its truth. Understanding the matter now, I feel no interest in this altercation, and leave you and Mr. Crawford, and all concerned, to settle the affair in your own way, and now close this correspondence for ever.

I am, very respectfully,

Your most obedient servant,

ANDREW JACKSON.

Hon. J. C. CALHOUN,
Vice-President of the United States.

No. 11.

Mr. Calhoun to General Jackson.

FORT HILL, *August 25th*, 1830.

SIR,—I received, on the 6th instant, your letter dated the 19th June, but which, I suppose, was intended for the 19th July, with its enclosures. On the 24th of June I received the note of Mr. Forsyth, covering a copy of his letter to you of the 17th same month; but, owing to some delay in the conveyance, for which I am unable to account, I did not receive your letter of the 7th June, covering a copy of your letter to Mr. Forsyth, till the 14th July.

You regret that I did not receive your letter of the 7th

June before I wrote mine of the 28th of the same month, on the ground, to use your own language, that it would have prevented me "from falling into the gross errors you have, from the unfounded inferences you have drawn from Mr. Forsyth's letter to me." You cannot more sincerely regret than I do that any delay in the mail deprived me of the advantage of the statement in your letter to Mr. Forsyth, seeing that you deemed it material to a correct understanding of the facts; but I must say, after a careful perusal of your letter to him, as well as yours to myself, I am utterly at a loss to perceive the "gross errors" of which you accuse me. So far as I can understand you, they seem to consist in the supposition that I inferred from Mr. Forsyth's letter that you applied to him personally to obtain the information from Mr. Crawford, of what took place in the cabinet on the Seminole question; whereas, in fact, you applied not to him, but to Mr. James Hamilton, of New York; and that it was he, and not you, who applied to Mr. Forsyth to obtain the information. If there be a difference in principle between the two statements, I can only say that I am not responsible for it. The charge of "error" ought to be made against Mr. Forsyth, and not me. His words are: "Having, at the request of the President to be informed what took place in the cabinet of Mr. Monroe on the subject of the Seminole campaign, laid before him a copy (except the omission of a name) of a letter from Mr. Crawford, which has been since communicated to you," &c. &c. Now, Sir, if I had inferred from these words, as you suppose I did, that you had personally applied to Mr. Forsyth to obtain the information for you, I would have done no more than what I fairly might, without the imputation of "gross errors." But I made no such inference; on the contrary, I have used almost the very words of Mr. Forsyth. My language is: "I had supposed, from the complexion of your letters to me, that the copy of Mr. Crawford's letter to Mr. Forsyth had been

placed by the latter in your hands, without any previous act or agency on your part; but, by Mr. Forsyth's letter to me, I am informed that such is not the fact. It seems that he acted as your agent in the affair. He states that you applied to him to be informed of what took place in the cabinet of Mr. Monroe on the subject of the Seminole campaign." In my letter to Mr. Forsyth, I use almost verbatim the same language. So far as I am capable of understanding the force of words, my language does not vary, in the smallest degree, in its sense, from that used by Mr. Forsyth in his letter to me, and most certainly does not more strongly imply than his does that you applied to him personally for the information. But, suppose I had fallen into the "gross errors" of inferring from Mr. Forsyth's letter that you had personally applied to him, when, in fact, it was not you, but your agent, James Hamilton (of New York), who applied for you *in your name*, as Mr. Forsyth informed you in his letter of 17th June, it requires more penetration than I possess to discover how the difference can, in the slightest degree, affect the only material question, whether he acted as a mere volunteer, or as your agent. Mr. Forsyth himself decides this question. He tells you expressly, that he did not act as a volunteer; and it is on the ground that he acted for you, and not for himself, that I claimed of you to be put in possession of certain facts connected with the subject of our correspondence, which were in the possession of Mr. Forsyth, and which I deemed important to the full development of this affair; but, instead of complying with so reasonable a request, you reply, not by denying the justice of the request, nor that he acted for you, and not for himself, but by accusing me of "gross errors," an assumption on your part at once gratuitous and immaterial, that I had inferred that you had applied to Mr. Forsyth personally, when, in fact, the application had been made for you, in your own name, by Mr. Hamilton. I must say, that I cannot see in your

statement the least excuse for withholding from me the information requested; and I am constrained to add, that I have looked in vain in the course which you have pursued for the evidence of that frankness which you assured me, in submitting the copy of Mr. Crawford's letter to me, has ever characterized your conduct towards those with whom you had been in habits of friendship. As connected with this point, let me call your attention to a fact which has not been explained, though in my opinion it ought to be. It now appears that when Mr. Forsyth placed the copy of Mr. Crawford's letter in your hands, *he also placed with it* a copy of his letter referred to by Mr. Crawford. Why was it that a copy of this letter of Mr. Forsyth did not accompany Mr. Crawford's, when you placed a copy of the letter in my hands? Calling upon me in the spirit of frankness and friendship, as you informed me you did, I had a right to infer that every document connected with the charge, and in your possession, calculated to afford light, would be placed in my possession; and such, in fact, was my impression, but which I now find to be erroneous. It is with regret that I feel myself bound to state that Mr. Forsyth's letter, with the subsequent correspondence, has given an aspect to the affair very different from what I received from your first letter.

You have stated some suggestions of the Marshal of the District, which were communicated to you, as the reason why you have agitated this old affair at this time. You have not stated what they were, *to whom made*, or by *whom communicated*, which, of course, leaves me in the dark as to their nature or character. But whatever they may be, the course you adopted, considering the friendly relation which I had reason to suppose existed between us, is well calculated to excite surprise. Instead of applying to the Marshal, in order to ascertain what he did say, and from whom he derived his information, and then submitting his statement

to me, which course friendship, and the high opinion which you say you entertained for my character "for fair, open, and honorable conduct in all things," manifestly dictated, you applied for information, as to my conduct, to the man who, you knew, felt towards me the strongest enmity. I wish not to be understood that you had mere general information of his ill-will towards me. Your information was of the most specific character, and was of such a nature as ought to have made you distrust any statement of his, calculated to affect my reputation.

Knowing the political machinations that were carrying on against me, and wishing to place me on my guard, a friend of mine placed in my hands, some time since, a copy of a letter written by Mr. Crawford to a Nashville correspondent of his in 1827. It constitutes one of the many means resorted to in order to excite your suspicion against me. In it Mr. Crawford makes an abusive attack upon me; but not content with thus assailing my character in the dark, he offers to bring into the market the influence which Georgia might have on the presidential election, as a means whereby to depress my political prospects. To avoid the possibility of mistakes, I will give extracts from the letter itself, in full confirmation of what I have stated.

Speaking of the presidential election, Mr. Crawford says that, "the only difficulty that this State (Georgia) has upon the subject (your election), is, that, if Jackson should be elected, Calhoun will come into power."

Again: "If you can ascertain that Calhoun will not be benefited by Jackson's election, you will do him a benefit by communicating the information to me. Make what use you please of this letter, and show it to whom you please."

That the letter was clearly intended for your inspection, cannot be doubted. The authority to his correspondent to *make what use* he pleased, and to *show it to whom he pleased*, with the nature of the information sought, whether I was to

be benefited by your election, *which could only be derived from yourself*, leaves no doubt on that point; and I am accordingly informed that you saw the letter.

A proposition of the kind, at that particular period, when the presidential election was most doubtful, and most warmly contested, needs no comment as to its object. To say nothing of its moral and political character, stronger proof could not be offered of the deepest enmity towards me on the part of the writer, which at least ought to have placed you on your guard against all attacks on me from that quarter. The letter will not be denied; but if, contrary to expectation, it should, I stand ready, by highly respectable authority, to maintain its authenticity.

You well know the disinterested, open, and fearless course which myself and my friends were pursuing at this very period, and the weight of enmity which it drew down upon us from your opponents. Little did I then suspect that these secret machinations were carrying on against me at Nashville, or that such propositions could be ventured to be made to you, or, if ventured, without being instantly disclosed to me. Of this, however, I complain not, nor do I intend to recriminate; but I must repeat the expression of my surprise, that you should apply to an individual who you knew, from such decisive proof, to be actuated by the most inveterate hostility towards me, for information of my course in Mr. Monroe's cabinet. It affords to my mind conclusive proof that you had permitted your feelings to be alienated by the artful movements of those who have made you the victim of their intrigue, long before the commencement of this correspondence.

Instead of furnishing me with the information which I claimed, in order to a full understanding of this extraordinary affair, and which you could not justly withhold, you kindly undertake to excuse the individual to whom you supposed some allusion of mine to be made. I know not to

whom you refer. I made no allusion to any one particular individual. But, be that as it may, you must excuse me if, on subjects which concern me, I should prefer my judgment to yours, and, of course, if I should not be satisfied with your opinion, as a substitute for the facts by which I might be able to form my own.

After I had so fully demonstrated the candor and sincerity with which I have acted throughout this affair, I did not suppose that you would reiterate your former charges; but having done so, it only remains for me to repeat, in the most positive manner, the contradiction. I never for a moment disguised my sentiment on this or any other political subject. Why should I in this instance? I had violated no duty—no rule of honor, nor obligation of friendship. I did your motives full justice in every stage of the cabinet deliberation, and, after a full investigation, I entirely approved and heartily supported the final decision. In this course I was guided, it is true, not by feelings of friendship, but solely by a sense of duty. When our country is concerned, there ought to be room neither for friendship nor enmity.

You conclude your letter by saying that you understand the matter now, that you feel no interest in this altercation, and that you would leave me and Mr. Crawford, and all concerned, to settle this affair in our own way, and that you now close the correspondence for ever.

It is not for me to object to the manner you may choose to close the correspondence on your part. On my part, I have no desire to prolong it. The spectacle of the first and second officers of this great republic, engaged in a correspondence of this nature, has no attraction for me at any time, and is very far from being agreeable at this critical juncture of our affairs. My consolation is, that it was not of my seeking; and, as I am not responsible for its commencement, I feel no disposition to incur any responsibility for its con-

tinuance. Forced into it, to repel unjust and base imputations upon my character, I could not retire in honor while they continued to be reiterated.

Having now fully vindicated my conduct, I will conclude the correspondence also, with a single remark, that I too well know what is due to my rights and self-respect, in this unpleasant affair, to permit myself to be diverted into an altercation with Mr. Crawford, or any other individual, whom you may choose to consider as concerned in this affair.*

J. C. CALHOUN.

President JACKSON.

EXTRACTS

From the Private Correspondence between Mr. Monroe and Gen. Jackson, on the Seminole Affair, referred to in the Letter of the 29th May.

A.

Mr. Monroe to General Jackson.

WASHINGTON, *July 19th*, 1818.

DEAR SIR,—I received, lately, your letter of June 2d, by Mr. Hambly, at my farm in Loudoun, to which I had retired to await your report, and the return of your commissioners from Buenos Ayres. In reply to your letter, I shall express myself with the freedom and candor which I have invariably used in my communications with you. I shall withhold nothing in regard to your attack of the Spanish posts, and occupancy of them, particularly Pensacola, which you ought to know, it being an occurrence of the most deli-

* Mr. Crawford attempted to open a correspondence with me on this subject. I returned his letter, declining all correspondence with him, except through Gen. Jackson. See Appendix Q.

cate and interesting nature, and which, without a circumspect and cautious policy, looking to all the objects which claim attention, may produce the most serious and unfavorable consequences. It is by a knowledge of all the circumstances, and a comprehensive view of the whole subject, that the danger to which this measure is exposed may be avoided, and all the good which you have contemplated by it, as I trust, be fully realized.

In calling you into active service against the Seminoles, and communicating to you the orders which had been given just before to Gen. Gaines, the views and intentions of the Government were fully disclosed in respect to the operations in Florida. In transcending the limit prescribed by those orders, you acted on your own responsibility, on facts and circumstances which were unknown to the Government when the orders were given, many of which, indeed, occurred afterwards, and which you thought imposed on you the measure, as an act of patriotism, essential to the honor and interests of your country.

The United States stand justified in ordering their troops into Florida in pursuit of their enemy. They have this right by the law of nations, if the Seminoles were inhabitants of another country, and had entered Florida to elude our pursuit. Being inhabitants of Florida, with a species of sovereignty over that part of the territory, and a right to the soil, our right to give such an order is the more complete and unquestionable. It is not an act of hostility to Spain. It is the less so, because her Government is bound by treaty to restrain by force of arms, if necessary, the Indians there from committing hostilities against the United States.

But an order by the Government to attack a Spanish post would assume another character. It would authorize war, to which, by the principles of our constitution, the Executive is incompetent. Congress alone possess the

power. I am aware that cases may occur, where the commanding general, acting on his own responsibility, may with safety pass this limit, and with essential advantage to his country. The officers and troops of the neutral power forget the obligations incident to their neutral character; they stimulated the enemy to make war; they furnished them with arms and munitions of war to carry it on; they take an active part in other respects in their favor; they afford them an asylum on their retreat. The general obtaining victory pursues them to this post, the gates of which are shut against him; he attacks and carries it, and rests on those acts for his justification. The affair is then brought before his Government by the power whose post has been thus attacked and carried. If the Government whose officer made the attack had given an order for it, the officer would have no merit in it. He exercised no discretion, nor did he act on his own responsibility. The merit of the service, if there be any in it, would not be his. This is the ground on which this occurrence rests, as to his part. I will now look to the future.

The foreign Government demands—was this your act? or did you authorize it? I did not: it was the act of the general. He performed it for reasons deemed sufficient himself, and on his own responsibility. I demand, then, the surrender of the posts, and his punishment. The evidence justifying the conduct of the American general, and proving the misconduct of those officers, will be embodied, to be laid before the sovereign, as the ground on which their punishment will be expected.

If the Executive refused to evacuate the posts, especially Pensacola, it would amount to a declaration of war, to which it is incompetent. It would be accused with usurping the authority of Congress, and giving a deep and fatal wound to the constitution. By charging the offence on the officers of Spain, we take the ground which you have presented, and

we look to you to support it. You must aid in procuring the documents necessary for this purpose. Those which you sent by Mr. Hambly were prepared in too much haste, and do not, I am satisfied, do justice to the cause. This must be attended to without delay.

Should we hold the posts, it is impossible to calculate all the consequences likely to result from it. It is not improbable that war would immediately follow. Spain would be stimulated to declare it; and, once declared, the adventurers of Britain and other countries would, under the Spanish flag, privateer on our commerce. The immense revenue which we now receive would be much diminished, as would be the profits of our valuable productions. The war would probably soon become general; and we do not foresee that we should have a single power in Europe on our side. Why risk these consequences? The events which have occurred in both the Floridas show the incompetency of Spain to maintain her authority; and the progress of the revolutions in South America will require all her forces there. There is much reason to presume that this act will furnish a strong inducement to Spain to cede the territory, provided we do not wound too deeply her pride by holding it. If we hold the posts, her government cannot treat with honor, which, by withdrawing the troops, we afford her an opportunity to do. The manner in which we propose to act, will exculpate you from censure, and promises to obtain all the advantages which you contemplated from the measure, and possibly very soon. From a different course no advantage would be likely to result, and there would be great danger of extensive and serious injuries.

I shall communicate to you, in the confidence in which I write this letter, a copy of the answer which will be given to the Spanish minister, that you may see distinctly the ground on which we rest, in the expectation that you will give it all the support in your power. The answer will be

drawn on a view, and with attention to the general interests of our country, and its relations with other powers.

A charge, no doubt, will be made of a breach of the Constitution; and, to such a charge, the public feeling will be alive. It will be said that you have taken all the power into your own hands, not from the executive alone, but likewise from Congress. The distinction which I have made above, between the act of the Government, refutes that charge. This act, as to the General, will be right, if the facts on which he rests made it a measure of necessity, and they be well proved. There is no war, or breach of the Constitution, unless the Government should refuse to give up the posts; in which event, should Spain embargo our vessels, and war follow, the charge of such breach would be laid against the Government with great force. The last imputation to which I would consent justly to expose myself, is that of infringing a Constitution, to the support of which, on pure principles, my public life has been devoted. In this sentiment, I am satisfied, you fully concur.

Your letters to the department were written in haste, under the pressure of fatigue and infirmity, in a spirit of conscious rectitude; and, in consequence, with less attention to some parts of their contents than would otherwise have been bestowed on them. The passage to which I particularly allude, from memory, for I have not the letter before me, is that in which you speak of incompetency of an imaginary boundary to protect us against the enemy, being the ground on which you bottom all your measures. This is liable to the imputation that you took the Spanish posts for that reason, as a measure of expedience, and not on account of the misconduct of the Spanish officers. The effect of this and such passages, besides other objections to them, would be to invalidate the ground on which you stand, and furnish weapons to adversaries who would be glad to seize them. If you think proper to authorize the Secretary, or

myself, to correct those passages, it will be done with care, though, should you have copies, as I presume you have, you had better do it yourself.

The policy of Europe respecting South America is not yet settled. A congress of the allied powers is to be held this year (November is spoken of), to decide that question. England proposes to restore the colonies to Spain with free trade and colonial governments. Russia is less favorable, as are all the others. We have a Russian document, written by order of the Emperor, as the basis of instructions to his Ministers at the several courts, speaking of the British proposition favorably, but stating that it must be considered and decided on by the allies, and the result published, to produce a moral effect on the colonies, on the failure of which, force is spoken of. The settlement of the dispute between Spain and Portugal is made a preliminary. We partake in no councils whose object is not their complete independence. Intimations have been given us that Spain is not unwilling, and is even preparing for war with the United States, in the hope of making it general, and uniting Europe against us and her colonies, on the principle that she has no hope of saving them. Her pertinacious refusal to cede the Floridas to us heretofore, though evidently her interest to do it, gives some coloring so the suggestions. If we engage in a war, it is of the greatest importance that our people be united, and, with that view, that Spain commence it; and, above all, that the Government be free from the charge of committing a breach of the Constitution.

I hope that you have recovered your health. You see that the state of the world is unsettled, and that any future movement is likely to be directed against us. There may be very important occasions for your services, which will be relied on. You must have the object in view, and be prepared to render them.

B.

Gen. Andrew Jackson to Mr. Monroe.

NASHVILLE, *August 19th*, 1818.

SIR,—Your letter of the 19th July, apprising me of the course to be pursued in relation to the Floridas, has been received. In a future communication, it is my intention to submit my views of all the questions springing from the subject, with the fulness and candor which the importance of the topic, and the part I have acted in it, demand. At present, I will confine myself to the consideration of a part of your letter, which has a particular bearing on myself, and which seems to have originated in a misconception of the import of the order under which I have commenced the Seminole campaign. In making this examination, I will make use of all the freedom which is courted by your letter, and which I deem necessary to afford you a clear view of the construction which was given to the order, and the motives under which I proceeded to execute its intentions.

It is stated in the second paragraph of your letter, that I *transcended the limits of my order*, and that I *acted on my own responsibility*.

To these two points I mean at present to confine myself. But, before entering on a proof of their applicability to my acts in Florida, allow me fairly to state, that the assumption of responsibility will never be shrunk from when the public can thereby be promoted. I have passed through difficulties and exposures for the honor and benefit of my country; and whenever still, for this purpose, it shall become necessary to assume a further liability, no scruple will be urged or felt. But when it shall be required of me to do so, and the result be danger and injury to that country, the inducement will be lost, and my consent will be wanting.

This principle is held to be incontrovertible, that an order, generally, to perform a certain service, or effect a certain

object, without any specification of the means to be adopted, or limits to govern the executive officer, leaves an *entire discretion* with the officer as to the choice and application of means, but preserves the responsibility for his acts on the authority from which the order emanated. Under such an order *all the acts* of the inferior are acts of the superior; and in no way can the subordinate officer be impeached for his measures, except on the score of deficiency in judgment and skill. It is also a grammatical truth, that the limits of such an order cannot be *transcended* without an entire desertion of the objects it contemplated; for as long as the main legitimate design is kept in view, the policy of the measures adopted to accomplish it is alone to be considered. If these be adopted as the proper rules of construction, and we apply them to my order of December 26, 1817, it will be at once seen, that, both in description and operative principle, they embrace that order exactly. The requisitions of the order are for the commanding general to assume the immediate command at Fort Scott, to concentrate all the contiguous and disposable force of the division on that quarter, to call on the executives of adjacent States for an auxiliary militia force, and concludes with this comprehensive command: "With this view you may be prepared to concentrate your forces, and adopt the necessary measures to terminate a conflict, which it has ever been the desire of the President, from motives of humanity, to avoid, but which is now made necessary by their settled hostility."

In no part of this document is there a reference to any previous order, either to myself or another officer, with a view to point to me the measures thought advisable, or the limits of my power in choosing and effecting them. It states that Gen. Gaines has been ordered to Amelia island, and then proceeds to inform me that "subsequent orders have been given to General Gaines (of which copies will be furnished you), that you would be directed to take the com-

mand, and directing him to re-assume, should he deem the public interest to require it, the command at Fort Scott, until you should arrive there." Lastly, it mentions that "he was instructed to penetrate the Seminole towns through the Floridas, provided the strength of his command at Amelia would justify his engaging in offensive operations. The principle determining the weight of references, in subsequent orders, to instructions previously given, is well settled. Such references are usually made with one of these two intentions—either the order is given to a second officer, to effect a certain purpose which was intended to be effected by another officer, and the instructions of the first are referred to as the guide of the second; or the order contains and is designed for an extension of authority, and only refers to anterior communications to give a full view of what has been previously attempted and performed. In the first case it is always necessary to connect the different orders by a specific provision, that no doubt may exist as to the extent of the command; and thus the several requisitions and instructions are amalgamated, and the limits of the agent plainly and securely established. In the second, no such provision is necessary; for an entire discretion in the choice and use of means being previously vested, the reference, if there be any, is only descriptive of the powers antecedently given, and the results of measures attempted under such specifical limitation. But admitting, that, in my order of December 26, 1817, there is such a reference as I contemplated in the first case, allow me to examine its character and amount. It is stated that "orders have been given to General Gaines (copies of which will be furnished you,)" but without affirming that they are to be considered as binding on me, or in any way connected with the comprehensive command that I should terminate the Seminole conflict. On the contrary, so far are they from being designated as my guide and limits in entering Florida, that, in

stating their substance in the ensuing sentence, no allusion whatever is made either to *means* or *limitation*.

How, then, can it be said with propriety that I have *transcended the limits* of my orders, or *acted on my own responsibility?* My order was as comprehensive as it could be, and contained neither the minute original instructions, or a reference to others previously given, to guide and govern me. The fullest discretion was left with me in the selection and application of means to effect the specifical legitimate objects of the campaign; and for the exercise of a sound discretion on principles of policy am I alone responsible. But allow me to repeat, that responsibility is not feared by me, if the general good requires its assumption. I never have shrunk from it, and never will; but against its imposition on me contrary to principle, and without the prospect of any politic result, I must contend with all the feelings of a soldier and a citizen. Being advised that you are at your country seat in Loudoun, where I expect this will reach you, I enclose you a copy of the order to me of the 26th December, 1817, and copies of the orders of General Gaines therein referred to; from a perusal of which you will perceive that the order to me has no reference to those prohibitory orders to General Gaines that you have referred to.

It will afford me pleasure to aid the Government in procuring any testimony that may be necessary to prove the hostility of the officers of Spain to the United States. I had supposed that the evidence furnished had established that fact—that the officers of Spain had identified themselves with our enemy, and that St. Mark's and Pensacola were under the complete control of the Indians, although the Governor of Pensacola at least had force sufficient to have controlled the Indians, had he chosen to have used it in that way. For the purpose of procuring the necessary evidence of the hostile acts of the Governor of Pensacola, I despatched Captain

Young, topographical engineer, and as soon as obtained will be furnished you. I trust, on a view of all my communications (copies of which have been forwarded by Capt. Gadsden), you will find that they do not bear the construction you have given them. They were written under bad health, great fatigue, and in haste. My bad health continues: I labor under great bodily debility.

Accept assurances of my sincere regard and esteem; and am, respectfully,

Your most obedient servant,

ANDREW JACKSON.

JAMES MONROE, *President U. S.*

C.

James Monroe to Gen. Andrew Jackson.

WASHINGTON, *October* 20*th*, 1818.

DEAR SIR,—I received your letter of the 19th of August, while I was at home, on my farm in Albemarle; and there appearing to be no necessity for giving it an immediate answer, I delayed it until my return here.

I was sorry to find that you understood your instructions relative to operations in Florida differently from what we intended. I was satisfied, however, that you had good reason for your conduct, and have acted in all things on that principle. By supposing that you understood them as we did, I concluded that you proceeded on your own responsibility alone, in which, knowing the purity of your motives, I have done all that I could to justify the measure. I well knew, also, the misconduct of the Spanish authorities in that quarter, not of recent date only.

Finding that you had a different view of your power, it remains only to do justice to you on that ground. Nothing can be further from my intention than to expose you to a responsibility, in any sense, which you did not contemplate.

The best course to be pursued seems to me to be for you to write a letter to the Department, in which you will state, that, having reason to think that a difference of opinion existed between you and the Executive, relative to the extent of your powers, you thought it due to yourself to state your view of them, and on which you acted. This will be answered, so as to explain ours, in a friendly manner by Mr. Calhoun, who has very just and liberal sentiments on the subject. This will be necessary in the case of a call for papers by Congress, or may be. Thus we shall all stand on the ground of honor, each doing justice to the other, which is the ground on which we wish to place each other.

I hope that your health is improved, and Mrs. Monroe unites in her best respects to Mrs. Jackson.

With great respect and sincere regard,

I am, dear Sir, yours,

JAMES MONROE.

Major Gen. A. JACKSON, *Nashville, Tennessee.*

D.

Extract from General Jackson's letter of November 15th, 1818, to Mr. Monroe.

"DEAR SIR,—On my return from the Chickasaw treaty, I found it necessary to pass by Milton's Bluff, where I had established some hands for the culture of cotton, hearing it had been laid out for a town and the lots sold, to have as much of my crop preserved as existing circumstances would permit. From thence I took Huntsville in my route, and did not reach the Hermitage until the 12th instant, and on the 13th received your letter of the 20th ult.; from an attentive perusal of which, I have concluded that you have not yet seen my despatches from Fort Gadsden, of the 5th of May last, which it is reported reached the Department of War by due course of mail, and owing to the negligence of

the clerks was thrown aside as a bundle of revolutionary and pension claims. This I sincerely regret, as it would have brought to your view the light in which I viewed my orders. The closing paragraph of that despatch is in the following words:

"I trust, therefore, that the measures which have been *adopted in pursuance* of your instructions, under a firm conviction that they alone are calculated to ensure peace and security to the southern frontier of Georgia."

The moment, therefore, that you assume the ground that I transcend my powers, the letter referred to above will, at once, unfold to your mind the view I had taken of them, and make manifest the difference of opinion that exists. Indeed, there are no data at present upon which such a letter as you wish written to the Secretary of War can be bottomed. I have no ground that a difference of opinion exists between the Government and myself, relative to the powers given me in my orders, unless I advert either to your private and confidential letters, or the public prints, neither of which can be made the basis of an official communication to the Secretary of War. Had I ever, or were I now to receive an official letter from the Secretary of War, explanatory of the light in which it was intended by the Government that my orders should be viewed, I would with pleasure give my understanding of them."

E.

General Jackson to James Monroe.

HERMITAGE, NEAR NASHVILLE,
December 7th, 1818.

DEAR SIR,—I have just received your message to both Houses of Congress, forwarded by you, and have read it with great attention and satisfaction. The Florida question being now fairly before Congress, I hope that body will

take measures to secure our southern frontier from a repetition of massacre and murder.

From the report of Col. King, received and forwarded to the Department of War, you will discover that the Indians had concentrated their forces on the Choctaw Hotchy, which gave rise to the affair between them and Captain Boyles, which Col. King reports.

The collection of the Indians is said to have taken place at this point on their hearing that Pensacola was to be restored to Spain, and that the Indians have declared they will never submit to the United States. If this be the fact, and as to myself I have no doubt, as soon as Spain is in possession of Pensacola, we may expect to hear of a renewal of all the horrid scenes of massacre on our frontier that existed before the campaign, unless Captain Boyles, on his second visit, may be fortunate enough to destroy this operation, which you may rely springs from foreign excitement.

Col. Sherburne, Chickasaw agent, requested me to name to you that he was wearied with his situation, of which I have no doubt: his age and former habits of life but little calculated him for happiness amidst a savage nation. But being dependent for the support of himself and sister on the perquisites of his office, he cannot resign; but it would be a great accommodation to him to be transferred to Newport, should a vacancy in any office occur that he was competent to fill. I have no doubt but he is an amiable old man; and from his revolutionary services, I sincerely feel for him. He is unacquainted with Indians, and all business that relates to them; but at the treaty, as soon as he did understand our wishes and that of the Government, he aided us with all his might. The Colonel never can be happy amidst the Indians. It would afford me great pleasure to hear that the Colonel was comfortably seated in an office in Newport, where he could spend his declining years in peace and happiness with his own countrymen and friends.

Accept assurances of my high respect and esteem, and believe me to be, respectfully, your most obedient servant,

ANDREW JACKSON.

JAMES MONROE,
President of the United States.

F.

Mr. Monroe to General Jackson.

WASHINGTON, *December* 21*st*, 1830.

DEAR SIR,—I received your letter of November 13th, some time past, and should have answered it sooner but for the great pressure of business on me, proceeding from duties connected with the measures of Congress.

The step suggested in mine to you of October 20th, will, I am inclined to believe, be unnecessary. My sole object in it was to enable you to place your view of the authority under which you acted in Florida on the strongest ground possible, so as to do complete justice to yourself. I was persuaded that you had not done yourself justice in that respect, in your correspondence with the Department, and thought that it would be better that the explanation should commence with you, than be invited by the Department. It appeared to me that that would be the most delicate course in regard to yourself. There is, it is true, nothing in the Department to indicate a difference of opinion between you and the Executive, respecting the import of your instructions, and for that reason, that it would have been difficult to have expressed that sentiment without implying by it a censure on your conduct, than which nothing could be more remote from our disposition or intention.

On reviewing your communication by Captain Gadsden, there were three objects pre-eminently in view: the first, to preserve the Constitution from injury; the second, to deprive Spain and the allied powers of any just cause of war; and the third, to improve the occurrence to the best advan-

tage of the country, and of the honor of those engaged in it. In every step which I have since taken, I have pursued those objects with the utmost zeal, and according to my best judgment. In what concerns you personally, I have omitted nothing in my power to do you justice, nor shall I in the sequel.

The decision in the three great points above stated, respecting the course to be pursued by the administration, was unanimously concurred in ; and I have good reason to believe that it has been maintained since, in every particular, by all, with perfect integrity. It will be gratifying to you to know that a letter of instructions has been drawn by the Secretary of State to our minister at Madrid, in reply to a letter of Mr. Pizzaro, which has been published, in which all the proceedings in Florida, and in regard to it, have been freely reviewed, and placed in a light which will, I think, be satisfactory to all. This letter will be reported to Congress in a few days, and published of course.

On one circumstance it seems proper that I should now give you an explanation. Your letter of January 6, was received while I was seriously indisposed. Observing that it was from you, I handed it to Mr. Calhoun to read, after reading one or two lines, only, myself. The order to you to take the command in that quarter had before then been issued. He remarked, after perusing the letter, that it was a confidential one, relating to Florida, which I must answer. I asked him if he had forwarded to you the orders of Gen. Gaines on that subject. He replied that he had. Your letter to me, with many others from friends, was put aside, in consequence of my indisposition and the great pressure on me at the time, and never recurred to until after my return from Loudoun, on the receipt of yours by Mr. Hambly, and then on the suggestion of Mr. Calhoun.

G.

George McDuffie to Mr. Calhoun.

WASHINGTON, *May 14th*, 1830.

DEAR SIR,—In answer to the inquiries contained in your note of this morning, I submit the following statement. I very distinctly recollect to have heard Mr. Crawford (I think, in the summer of 1818) in conversation with Eldred Simpkins, Esq., relative to the proceedings of Gen. Jackson in the Seminole war, and to the course pursued by the cabinet, touching those proceedings. Mr. Crawford spoke without any kind of reserve as to the respective parts taken by the different members of the cabinet while the subject was under deliberation. He stated that you had been in favor of an inquiry into the conduct of Gen. Jackson, and that he was the only member of the cabinet that had concurred with you. He spoke in strong terms of disapprobation of the course pursued by Gen. Jackson, not only in his military proceedings, but in prematurely bringing the grounds of his defence before the country, and forestalling public opinion, thus anticipating the administration. On this point he remarked, that if the administration could not give direction to public opinion, but permitted a military officer, who had violated his orders, to anticipate them, they had no business to be at Washington, and had better return home. I also remember that the National Intelligencer, which was lying on the sofa where Mr. Crawford was sitting, contained an article explanatory of the grounds upon which the administration had proceeded in regard to Gen. Jackson's military movements. Mr. Crawford adverted to some part of the article, which laid down a principle of the law of nations, if I mistake not, which went to show that a neutral territory could only be invaded in fresh pursuit of an enemy, and added, "Mr. Adams denies all that." He represented Mr. Adams as going much further in justifying Gen. Jack-

son than even Mr. Monroe, stating that the latter was induced to pass over the conduct of Gen. Jackson without public censure, not from a belief that he had not violated his orders and exceeded his power, but from political considerations connected with our relations with Spain.

Your obedient servant,

GEO. McDUFFIE.

H.

Extract of a Letter from the Honorable Robert S. Garnett, formerly a Member of Congress from the State of Virginia, dated Tappahannock, January 12th, 1831.

"MY DEAR SIR,—A very extraordinary letter I have seen in the Constitutional Whig, purporting to give a correct account of the part which the several members of Mr. Monroe's cabinet took when the conduct of Gen. Jackson was before them, has induced me to offer you the following statement.

"Soon after Col. Taylor's election to the Senate, and arrival at the seat of Government, we paid a visit to Mr. Monroe, and, in the course of the day, Col. T. desired Mr. M. to give him some account of the course that had been pursued towards Gen. Jackson in regard to the Seminole war, &c. In this conversation, Mr. Monroe declared that there had been no division in his cabinet, as to the course which should be pursued towards the General. This excited my astonishment, because, in a conversation with Mr. Crawford, either before the debate commenced, or while it was pending, Mr. Crawford had used this expression to me—'Gen. Jackson ought to be condemned.' I noted this expression down in a journal I kept, and subsequently repeated it frequently. Mr. C. Beverly told me that he had mentioned it to Gen. Jackson, when he was at his house in Tennes-

see, and, I think, said that the General expressed much surprise.

"Hon. J. C. Calhoun."

Extract from Mr. Garnett's Diary for the 1st February, 1819, referred to above.

"The night before last, Col. Taylor proposed we should go up and see the President, as Everett said he frequently complained of our not going, though we lived so near. Newton would not go, because he had to shave and put on a clean shirt. We found him in the drawing room, with Hay, Everett, Moore, and Findlay. M. and F. and E. soon went out, and so did Hay, who was going to Secretary Thompson's. The President then talked very freely about public affairs—gave us an account of the proceedings of the Government in relation to the Seminole war. He stated what I have frequently heard before, that the whole cabinet were perfectly agreed that he should not censure Gen. Jackson. It is, however, well understood, that Mr. Crawford, out of the cabinet, used his endeavor to have Cobb's resolutions passed; and I could not forbear telling the President, that, in conversation with me about Cobb's resolutions, while they were pending, Mr. Crawford said Jackson ought to be censured. He expressed surprise, and seemed to look regret. He says the members of the cabinet are still in harmony among themselves, apparently."

J.

John C. Calhoun to Mr. Monroe.

Washington, *May 17th*, 1830.

Dear Sir,—It has become important to me, in consequence of a recent circumstance, to ascertain whether Gen. Jackson's letter to you of the 6th January, 1818—I mean the one in which allusion is made to Mr. J. Rhea—was seen,

when received, by any one except myself, and, if it was, by whom. I will thank you to inform me by the return mail; and, also, whether the letter above alluded to was before the cabinet, or was alluded to by any of its members, during the deliberation on the Seminole affair.

With sincere regard,

I am, &c. &c.

J. C. CALHOUN.

J. MONROE, Esq.

K.

James Monroe to John C. Calhoun.

OAK HILL, *May 19th*, 1830.

DEAR SIR,—I have received your letter of the 17th, and hasten to answer it. I well remember, that, when I received the letter from General Jackson, to which you allude, of the 16th January, 1818, I was sick in bed, and could not read it. You were either present, or came in immediately afterwards, and I handed it to you for perusal. After reading it, you replaced it, with a remark that it required my attention, or would require an answer; but without any notice of its contents. Mr. Crawford came in soon afterwards, and I handed it also to him for perusal. He read it, and returned it in like manner, without making any comment on its contents, further than that it related to the Seminole war, or something to that effect. I never showed it to any other person, and I am not certain whether it was he or you who observed that it related to the Seminole war. Having made all the arrangements respecting that war, and being some time confined by indisposition, the letter was laid aside and forgotten by me, and I never read it until after the conclusion of the war, and then I did it on an intimation from you that it required my attention. You ask whether that letter was before the cabinet in the deliberation on the despatches received from the General, communicating the result of that

war, or alluded to by any member in the administration. My impression decidedly is, that it was not before the cabinet, nor do I recollect or think that it was alluded to in the deliberation on the subject. Had it been, I could not, I presume, have forgotten it. I received the despatches referred to here, and had made up my mind before I left home as to the part I ought to take in reference to its management, especially if I should be supported in the opinion formed by the administration. That support was afforded it, and I pursued the course which my judgment dictated, with a view to the honor and interest of my country, and the honor of the General who commanded.

With sincere regard, I am, dear sir, yours,

JAMES MONROE.

Hon. J. C. CALHOUN.

L.

John C. Calhoun to Mr. Wirt.

WASHINGTON, *May* 28*th*, 1830.

DEAR SIR,—Circumstances which I need not explain render it necessary for me, in self defence, to call on you for a statement of my course in the meeting of the cabinet, in the summer of 1818, on the Seminole war. I wish you also to state, whether a private letter from Gen. Jackson to Mr. Monroe, such as discovered in the enclosed extract of a letter from Mr. Crawford to Mr. Forsyth, was before the cabinet during the deliberation, or whether any allusion was made to any letter of that description.

With sincere regard,

I am, &c., &c.,

J. C. CALHOUN.

Hon. Mr. WIRT.

M.

Mr. Wirt to Mr. Calhoun.

WASHINGTON, *May* 28*th*, 1830.

DEAR SIR,—Your letter of yesterday relates to a meeting of the cabinet in the summer of 1818, relative to the Seminole war. I should not feel myself at liberty to disclose the proceeding of any cabinet meeting without the concurrence of the President and of all the members who attended it; but as your inquiry relates to your own course only, and I can speak of that without involving any one else, I see no impropriety in doing so at your request. Among other ideas thrown out for consideration, according to the usual course of cabinet consultations, I think that, at the first meeting, you suggested the propriety of an inquiry into the conduct of the commanding general; but I remember that the course ultimately adopted had your hearty concurrence; and I remember it the more distinctly because you mentioned it repeatedly to me afterwards, as a striking evidence of the practical wisdom of the President, who suggested it. Thus much I feel myself authorized by the call to say of those deliberations. The circumstances mentioned in the extract you enclose, purporting to be an "extract of a letter from W. H. Crawford, Esq., to John Forsyth, Esq., dated April 30, 1830," have no place in my recollection. The letter from General Jackson to President Monroe, therein mentioned, is entirely new to me. According to the description of the letter, given of it in the extract, it is one of so singular a character, that, if it had been exhibited at any meeting at which I was present, I *think* that I could not have forgotten it. The occurrence is said to have taken place twelve years ago. I kept no notes in writing of any of those deliberations, and am speaking merely from memory. But still I think, that if such a letter had been produced and read in my presence, I should have retained some

recollection of it; whereas it strikes me, in the description, as a thing perfectly new, and of which I never heard before. In the close of the extract, the writer says: "After that letter was produced, I should have opposed the infliction of punishment upon the General, who had considered the silence of the President as a tacit consent." I have no recollection that *punishment* had been proposed by any one, unless *an inquiry* into the official conduct of the General can be regarded as *punishment*. It strikes me, too, that if that letter had been produced, and Mr. Crawford had placed his implied change of opinion on the inference of acquiescence which he supposed the General to be authorized to draw from the President's silence, it could not have escaped observation, and such a discussion as would have tended to have fixed the occurrence on my memory, that the General had not asked the President for an acquiescence to be inferred from silence, but for a positive *hint* of his approbation through "some confidential member of Congress, say Johnny Ray." Upon the whole, sir, if these things did really occur in my presence, I can only say that they have left not the slightest trace on my memory.

I remain, very respectfully,
Your obedient servant,
WM. WIRT.

The Hon. JOHN C. CALHOUN, Vice President U. S.

N.

Copy of a Letter to Mr. Adams, 12th January, 1831.

WASHINGTON, *Jan.* 12*th*, 1831.

SIR,—A short time before the last adjournment of Congress, a copy of a letter from Mr. Crawford to Mr. Forsyth, in relation to the deliberation of the cabinet on the Seminole question, was placed in the hands of Gen. Jackson, and became the subject of a correspondence between him and

myself. In the course of that correspondence, it became necessary, in order to ascertain the truth or error of some of the statements made by Mr. Crawford, to refer to some of the other members of the cabinet, and I accordingly addressed notes to Mr. Monroe and Mr. Wirt, from both of whom I obtained statements. In selecting those gentlemen, instead of yourself and Mr. Crowninshield, I was not in the least degree influenced by any want of confidence in either of you, but simply by feelings of delicacy growing out of political relations, and which I trust to corresponding feelings on your part properly to appreciate.

I learn by a letter from Mr. Crawford, addressed to me subsequent to the close of my correspondence with Gen. Jackson, that he has written to you, and obtained your answer on the subject to which it refers, though he has not furnished me with a copy of his letter to you, nor of your answer.

This step on his part has, of course, removed the delicacy which I at first felt, and which then prevented me from addressing you.

The part I took in the cabinet deliberation was dictated by a sense of duty, uninfluenced by either the feelings of friendship or enmity. That Gen. Jackson transcended his orders in taking St. Mark's and Pensacola, I have never doubted, then nor since. In my opinion, the Executive neither did nor could constitutionally give orders to take either of those places, or any other Spanish post. Under this impression, I was decidedly in favor, in the early stage of the deliberation, of bringing the subject before a court of inquiry, but finally yielded my opinion to considerations growing out of the political aspect of the question, as connected with Spain, which were presented by you and Mr. Monroe; but, in yielding to them, I still believed, and do now, that, apart from them, and considered under the mili-

tary aspect of the subject, as at first view, my opinion was correct.

Having thus concurred in the final decision of the cabinet, I gave it a faithful support, without, however, abandoning the correctness of my first conceptions. I make this preliminary statement in order that you may perceive why my inquiry should be directed only to what might seem a mere collateral circumstance, whether the letter of Gen. Jackson to Mr. Monroe, in which allusion is made to John Ray, was before the cabinet, which, though not calculated to affect the question of the correctness of my course, however decided, from the prominence that Mr. Crawford has given it, has assumed no small degree of importance in the correspondence. He, in his letter to Mr. Forsyth, says: "Indeed, my own views on the subject had undergone a material change after the cabinet had been convened. Mr. Calhoun made some allusion to a letter the General had written the President, who had forgotten that he had received such a letter, but said, if he had received such a one he could find it, and went directly to his cabinet and brought the letter out. In it Gen. Jackson approved of the determination of the President to break up Amelia Island and Galveston, and gave it also as his opinion that the Floridas ought to be taken by the United States. He added that it might be a delicate matter for the Executive to decide, but if the President approved of it, he had only to give a hint to some confidential member of Congress, say Johnny Ray, and he would do it, and take the responsibility of it on himself."

The object of my addressing you is to obtain a statement from you whether such a letter was or was not before the cabinet during its deliberation.

As connected with the subject of my inquiry I must ask of you the favor to furnish me, if you can with propriety, with a copy of Mr. Crawford's letter to you, and a copy of your answer. I make the request on the assumption that

the correspondence can contain nothing that would render it improper that a copy should be placed in my possession. I would make the request of Mr. Crawford himself, instead of you, had I not declined all communication with him in relation to the subject of the correspondence between Gen. Jackson and myself, except through the General, through which channel no opportunity to make the request has been afforded me.

O.

John Q. Adams to J. C. Calhoun.

WASHINGTON, *January* 14*th*, 1831.

SIR,—I received this morning your letter of the 12th instant, and, in giving to it an immediate and explicit answer, I trust you will perceive the propriety of my confining myself to the direct object of your inquiries.

In the course of the last summer, I received a letter from Mr. Crawford, referring to the consultations of Mr. Monroe with the heads of the Departments in the summer of 1818, upon the proceedings of Gen. Jackson in Florida, on the occasion of the Seminole war, and alluding to a letter from Gen. Jackson to Mr. Monroe, which he stated to have been produced at one of those meetings, and to which his own letter appeared to attach some importance.

Mr. Crawford did not state to me the purpose of his inquiries, nor was I aware that any previous correspondence in relation to the subject had taken place. But as the contents of his letter appeared to me to be of peculiar interest to the character of Mr. Monroe, I answered him that I had no recollection of the production of such a letter as that to which he referred, and requested his permission to communicate his letter to Mr. Monroe himself. To this answer I have received no reply.

Neither the letter of Mr. Crawford, nor the letter book containing the copy of my answer to it, are at this moment in my possession, having left them both at my residence in Quincy. The letter from Mr. Crawford did not purport to be confidential; but, as it related to transactions sacredly confidential in the cabinet of Mr. Monroe, I have not thought myself at liberty to furnish a copy of it without his permission, even to Mr. Monroe: the same principle applies to your request for a copy; but I will immediately write and direct a copy of my answer to be made, which, when received, shall be cheerfully communicated to you.

I am, with respectful consideration, sir,
Your obedient servant,
JOHN QUINCY ADAMS.

JOHN C. CALHOUN, Esq.

P.

Mr. Crowninshield to Mr. Calhoun.

WASHINGTON, *January* 30*th*, 1831.

DEAR SIR,—My recollection having been called to a letter received from the Hon. W. H. Crawford in July, 1830, wherein he asks my attention to "circumstances that transpired during the cabinet deliberations on the events of the Seminole war," and my reply thereto. It is proper for me to state, that I answered Mr. Crawford as though he alluded to transactions which took place while I was in Mr. Monroe's cabinet; but, since my arrival here this session, I learn for the first time, that the cabinet meeting alluded to by Mr. Crawford, was held after I retired from the cabinet.* I left

* Mr. Crowninshield could not have been present at any cabinet council on the Seminole affair. The first meeting on that subject took place on the 15th or 16th of July, 1818, Mr. Monroe having returned on the 14th, from his residence in Loudoun. The National Intelligencer of the 7th July announced the arrival of Mr. Crowninshield at his resi-

Washington in company with President Monroe and yourself, for Norfolk, by the way of Annapolis, on the 28th May, 1818. Now, sir, I do not pretend to know one word of what was said or done at any subsequent meeting; and I do therefore disclaim and say that my letter in answer to Mr. Crawford must not be interpreted so as to affirm or deny any cabinet transactions which took place after I left the cabinet.

It is difficult for me to account how I could have blended other things, so as to connect them with events of which I could know nothing. It is a long time since those things occurred, and memory is treacherous; and that, I beg you to believe, is the only reason of the misapprehension on my part.

I am with high consideration,

Your obedient servant,

B. W. CROWNINSHIELD.

Hon. J. C. CALHOUN, Vice-President.

Q.

Mr. Calhoun to Mr. Crawford, returning his letter of 2d October, 1830.

FORT HILL, *October* 30*th*, 1830.

SIR,—The last mail brought me your letter of the 2d instant, but post-marked the 23d, which I herewith return.

I cannot consent to correspond with you on the subject to which it refers. The controversy is not with you, but Gen.

dence in Massachusetts, on the 9th. He resigned in October following, without having returned to Washington. Nor could he have been present at *any* meeting of the cabinet on the subject of the capture of St. Mark's or Pensacola, in which I was. The Intelligencer of the 29th of May, 1818, announces the departure of the President (Mr. Monroe), Mr. Crowninshield, and myself, for Norfolk, before information was received at Washington of the capture of either St. Mark's or Pensacola. The two former returned to Washington. I proceeded to my residence in Carolina, and did not return to Washington until the 9th of July, subsequent to Mr. Crowninshield's arrival in Massachusetts.

Jackson. You, from the first, voluntarily assumed the character of the informer. Under that character only can I know you, which of course precludes all communication between us in relation to the controversy, except through Gen. Jackson. Regarding you in the light I do, you may rest assured that no abuse on your part, however coarse, nor charges against me, however false, can possibly provoke me to raise you to the level of a principal, by substituting you in the place of Gen. Jackson in the correspondence. Should you, however, submit to the degradation of the position which you have thus voluntarily taken, and will send this or any other statement to Gen. Jackson, and induce him to make it the subject of any further communication to me, as confirming in his opinion your former statement, or weakening my refutation, I will be prepared, by the most demonstrative proof, drawn from the paper itself, to show such palpable errors in your present statement as to destroy all confidence in your assertions; leaving it, however, to those who have the best means of judging to determine whether the want of truth be owing to a decayed memory or some other cause.

Having been taught by the past the necessity of taking all possible precaution where I have any thing to do with you, I deem it prudent not to deprive myself of the advantage which your paper affords me, and have accordingly taken a copy, as a precautionary measure.

I am, &c.

J. C. CALHOUN.

W. H. CRAWFORD, Esq.

Mr. Calhoun's Reply to Major Eaton.

Major Eaton has, in his late address, gratuitously dragged my name into his controversy with a part of his associates in the late administration. The station which he recently occupied, and the relation in which he is well

known to stand to the head of the Executive branch of the Government, are calculated to give more weight to his representations, at least with many, than belongs to the anonymous communications of the day; yet I would not have deemed his statement worthy of my notice, had he confined himself to the vague insinuations, which constitute the great body of his address, as far as it relates to me. To give color to his general charges, he has ventured, in a few instances, to descend into detail, and to give statements of facts, but in a manner wholly erroneous; which, however, might be received by the public as true, were I to remain silent. They have, in fact, been already so received in some respectable quarters. I am thus compelled, in self-defence, to correct the errors of his statements, as far as they concern me. The occurrences which are the subject of his address, are of a character to render me solicitous, that the part I took in relation to them, should be presented in the light which truth and justice require. The memory of them will probably outlive the present day; and a decent regard for the opinions of those who are to succeed us, naturally makes me desirous that I should not seem to have any other connection with events, little calculated to do credit to the history of the day, than what I in reality had.

It is impossible to doubt that the main drift of Major Eaton's address is to hold me up as the real author of all the discord which is alleged to have prevailed in the late cabinet, and to which he endeavors to trace its dissolution, and which, he would have the public believe, originated in a low and miserable squabble, on my part, in relation to the succession to the Presidential chair.

With this view, and in order to give a political aspect to the refusal of Mrs. Calhoun to visit Mrs. Eaton, he states, that she and myself called, in the first instance, on him and Mrs. Eaton, during their absence at Philadelphia: intending it to be inferred, that in declining intercourse afterwards, we

were actuated by political motives, and not by considerations connected with duty. Unfortunately for Major Eaton, his statement is not correct. Mrs. Calhoun never called on Mrs. Eaton at the time he states, nor at any other time before, or since, nor did she ever leave her card for her, nor authorize any one to do so; and she is entirely ignorant through what channel, or by what agency her card could come into his and Mrs. Eaton's possession; to which I add, that it was not done through my agency, or with my consent or knowledge. If Major Eaton had reflected, he would have seen that there must have been, to say the least, an imposition somewhere. He states, that our visit took place while they were in Philadelphia, and, of course, preceded their call, which, as he represents, took place after their return, and which, he must know, according to the usage that governs intercourse at the place, could not occur. The Senators and their families invariably make the first call on the Vice-President and his family; and in conformity with this rule, Major Eaton had called on me, on my arrival at Washington, before his marriage, which I afterwards returned; and, not finding him at home, left my card. This was, probably, while he was absent at Philadelphia, and was the only intercourse I had with him, as far as I can recollect, during the whole session, except what took place in the Senate chamber, or when we casually met at parties.

This is not the first time, that Mrs. Calhoun has contradicted the statement that she had visited Mrs. Eaton. It was reported at the time, that she had visited Mrs. Eaton, and that her card had been left. She then, on all suitable occasions, contradicted it, as directly and pointedly as she now does, and in particular to two respectable ladies from Tennessee (wives of members), who then resided in an adjoining boarding-house.

The erroneous statement of Major E. compels me to give a correct version of what actually occurred; but which I

never intended to intrude on the public, and now state, with great reluctance, even in self-defence. When he and Mrs. Eaton made their visit, I was not at home, as he states, and did not return till after they had retired. When I returned, Mrs. Calhoun mentioned they had been there, and said she would not have known who Mrs. Eaton was, had she not been with Mr. Eaton, as the servant had not announced their names. She of course treated them with civility. She could not, with propriety, do otherwise. The relation which Mrs. Eaton bore to the society of Washington, became the subject of some general remarks. The next morning she informed me, that she had made up her mind not to return her visit. She said that she considerd herself in the light of a stranger in the place, that she knew nothing of Mrs. Eaton, or the truth, or falsehood of the imputation on her character; and that she conceived it to be the duty of Mrs. Eaton, if innocent, to open her intercourse with the ladies who resided in the place, and who had the best means of forming a correct opinion of her conduct, and not with those who, like herself, had no means of forming a correct judgment. I replied, that I approved of her decision, though I foresaw the difficulties in which it would probably involve me; but that I viewed the question involved, as paramount to all political considerations, and was prepared to meet the consequences, as to myself, be they what they might.

So far from political motives having any influence in the course adopted, could they have been permitted to have any weight in the question, the very reverse course would have been pursued. The road to favor and patronage lay directly before me, could I have been base enough to tread it. The intimate relation between Gen. Jackson and Major Eaton was well known, as well as the interest that the former took in Mrs. Eaton's case; but, as degraded as I would have felt myself, had I sought power in that direction, I would nothave considered the infamy less had we adopted the course we

did from any other motive, than a high and sacred regard to duty. It was not, in fact, a question of the exclusion of one already admitted into society, but the admission of one already excluded. Before the marriage, while she was Mrs. Timberlake, she had not been admitted into the society of Washington; and the real question was, whether her marriage with Major Eaton, should open the door already closed upon her; or, in other words, whether official rank and patronage should, or should not, prove paramount to that censorship, which the sex exercises over itself, and on which, all must acknowledge, the purity and dignity of the female character mainly depend. Had the case been different; had a scheme been formed to exclude Mrs. Eaton, with political views, as is insinuated, the folly would have been equalled only by its profligacy. Happily for our country, this important censorship is too high and too pure to be influenced by any political considerations whatever. It is equally beyond the scope of power, or influence, to exclude the virtuous and unsuspected female from society, as experience has found it is to raise the suspected to that elevation. This point may now be considered settled, unless, indeed, the public should permit the fruits of the great victory that has been achieved, in favor of the morals of the country, by the high-minded independence and virtue of the ladies of Washington, to be lost by perverted and false representations of the real question at issue.

With the same view, and not much less erroneously, Major Eaton has given a statement of my application to him in favor of a friend for the place of chief clerk in the War Department. He has so drawn up his statement, as to make an impression, that I suspended all official intercourse with him, because he refused to comply with my application. The fact is far otherwise. It is true, that at the request of my friend, who was also a warm and devoted friend of Gen. Jackson, and had suffered from his attachment to him, I did present his name to Major Eaton, and that I had no offi-

cial intercourse with him afterwards; but for a very different reason from what he alleges; a reason which every individual, who has even a moderate share of self-respect, must deem amply sufficient, as a brief statement of the facts will prove. The application was made, not at the early period he states (which was necessary to make the impression he intends), when it was known he was to be appointed Secretary of War, but after he was appointed, and took possession of his office, and, if it be material, long after Mrs. Calhoun had declined to return Mrs. Eaton's visit. I called at his office a day or two before I left the city; I informed him that I called at the request of my friend, simply to state my impression of his qualification and not to urge his claim. After I had stated my impression in my friend's favor, he told me he was well satisfied with his qualifications, but that he had offered the place to another gentleman, whom he named, but informing me, at the same time, if he should decline, my friend would receive the appointment. I remarked, that the person to whom he had offered the place was perfectly qualified, and that I could not say a word to weaken his claim. Besides his qualifications, his relation with me was at least as intimate and friendly, as his whose name I had presented; and as between them it could not possibly be a source of offence, that the former was selected; which, all who know me, will admit, when I say the gentleman selected was Col. Gadsden. The next day I received a letter from Gov. Hamilton, then a member of Congress, to whom Major Eaton alludes as my friend, stating that he had made application to Major Eaton in favor of the person for whom I had applied, with the favorable result of his application. On the strength of this, as well as his promise to me, I wrote to my friend enclosing Gov. Hamilton's letter, and informed him he might expect the appointment with confidence, as I felt almost certain that Col. Gadsden would decline the office. He did decline; but, contrary to promise,

another person was appointed, without giving me any explanation, then, or since. It was this breach of promise, remaining still unexplained, which interposed a barrier on my part to farther official intercourse between us ; and not as Major Eaton represents, the mere refusal to grant the appointment, which of itself would never have had the least effect with me. If there should be any doubt as to the promise, or the time of the application, the letter of Governor Hamilton to me, and mine to my friend, both of which I suppose to be in existence, will establish the correctness of my statement.

But it seems that I am to be held responsible for the supposed feuds of the late Cabinet and its dissolution, because, as Major Eaton states, an ardent friend of the Vice-President said in 1829, that Major Eaton is not the friend of Mr. Calhoun. It would have been much more satisfactory, if Major Eaton had given the name of this supposed friend, with the time, place, and circumstances, not only to enable him to give his statement of the occurrence, but to afford me an opportunity of judging how far I ought to be responsible. It would have been both to him and me an act of simple justice, which, as far as I am concerned, would have been particularly desirable, as I must object to the competency of Major Eaton and his associates, to determine who are or who are not, my friends. They appear particularly liable to error on this point. But a short time since it was gravely charged, in an almost official quarter, that my friends had a meeting to expel him from the Cabinet, when it turned out, on further disclosures, that they were all gentlemen from the Western States,—Tennessee, Kentucky, and Louisiana,—and devoted friends of Gen. Jackson, actuated solely by a regard for the success and honor of his administration : a step, of the existence of which I was ignorant till after the meeting, and of the particulars, till disclosed by the recent publications. If to this I add Major Eaton's own liability to fall into error

in determining who are, or are not, my political friends, as disclosed in his late address, it will not, I am sure, be thought unreasonable, that I should object to his competency in that particular. When it is necessary to hold me responsible for scenes, the odium of which he shows uncommon anxiety to shift to the shoulders of others, he errs, on that point in relation to two of his late associates in the administration. If, in his anxiety to implicate me, he mistakes the politcal relations between. Mr. Branch and Mr. Berrien, and myself, gentlemen of whose sentiments one would suppose he could not be ignorant, we may reasonably suppose that he is equally mistaken in the case under consideration.

The inference he would draw from Gen. Green's course in relation to myself, can scarcely deserve more than a passing notice. Gen. Green's course has been of his own choosing, without an attempt on my part to influence him. Such an attempt would indeed have been perfectly idle. If he should be supposed to be governed by base and selfish views, how could I influence him? I had nothing to give, where he had much to lose. On the contrary supposition, that he was governed by a sense of truth and justice, an attempt to influence him was unnecessary. My course, I trust, afforded ample motives of that description. If it had not, it would have been vain in me, on the supposition of his honesty, to have attempted to obtain his support; as it clearly would have been, on the opposite, to have obtained it at all. As I have been compelled to speak of Gen. Green, it is due, in justice to him to say, that I believe Gen. Jackson had no friend more zealous and honest in his cause. Whatever may be his present feelings, I know from his own declarations, that he was early and decidedly enlisted in favor of his re-election. His own interest evidently lay in that direction, as I believe his views of public policy did. If he has since changed his opinion, many causes may be found, in what has since transpired, without attributing it to any im-

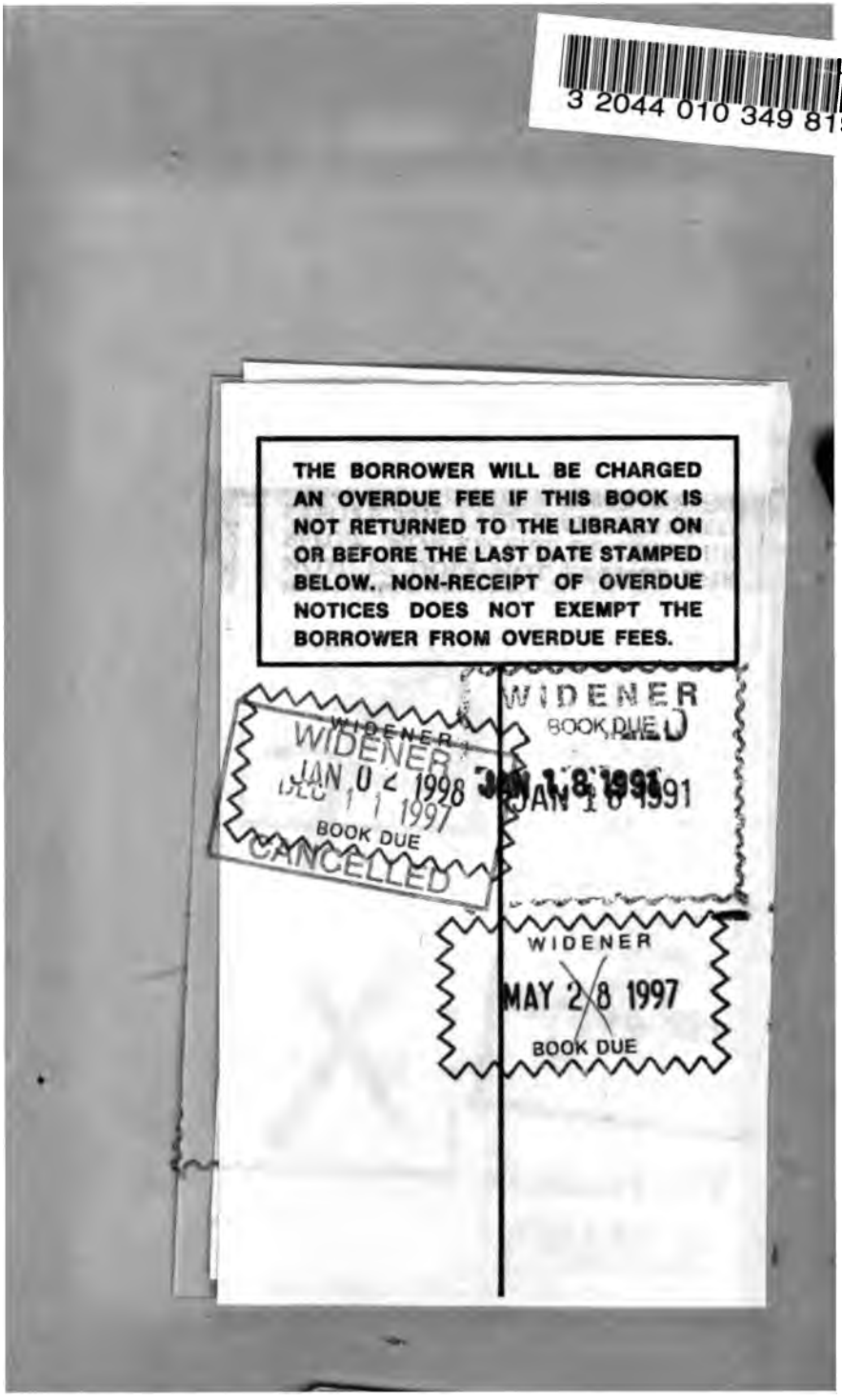
aginary influence over him, on my part, when it must be apparent to all, with the whole power and patronage of the Government against me, I had nothing through which to exercise it.

Having corrected the errors of Major Eaton's statements and inferences, wherever he has descended into particulars, it only remains to repel his general charges and insinuations, which I do by a direct and positive contradiction. It is not true, that I attempted to exercise any control in the formation of the late cabinet or to influence its patronage, or that I made any attempt to embarrass the Administration in the Senate, or elsewhere, or am any way responsible for the dissolution of the late cabinet; unless, indeed, the refusal of Mrs. Calhoun to visit Mrs. Eaton on grounds exclusively connected with the dignity and purity of her sex, or the vindication of my character against an unprovoked and unfounded attack, should be considered sufficient to render me responsible. These are my only offences. In truth, the reverse of all of these general charges and insinuations is true. Gen. Jackson never consulted me, as to the formation of his cabinet. He was even then, as it now appears, alienated from me, by means which have been explained on a former occasion. As he did not consult me, I had too much self-respect and regard for the dignity of the office I held, to intrude my advice; while the disinterestedness of my particular friends freed me from all solicitude on the score of patronage. As a body, they neither sought nor desired office. The most prominent of them, those who had taken the most decided and effective part in favor of General Jackson's election, had openly avowed their determination not to take office. In supporting him, they were actuated by far different, and much more elevated motives, than the low and sordid ambition that looks to power and patronage. Their object was to maintain principles which they believed to be essential to the liberty and happiness of the country, to restore the ad-

which it properly and exclusively belonged, restrained me from making the least allusion to it in the correspondence, though calculated to throw light on the controversy between us and to strengthen me in the conflict.

J. C. CALHOUN.

THE END.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